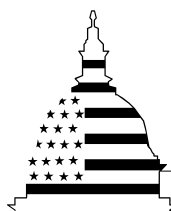


October 2003

# FOREST SERVICE

## Information on Appeals and Litigation Involving Fuels Reduction Activities



G A O

Accountability ★ Integrity ★ Reliability



Highlights of [GAO-04-52](#), a report to congressional requesters

## Why GAO Did This Study

The federal fire community's decades old policy of suppressing wildland fires as soon as possible has caused a dangerous increase in vegetation density in our nation's forests. This density increase combined with severe drought over much of the United States has created a significant threat of catastrophic wildfires. In response to this threat, the Forest Service performs activities to reduce the buildup of brush, small trees, and other vegetation on national forest land. With the increased threat of catastrophic wildland fires, there have been concerns about delays in implementing activities to reduce these "forest fuels." Essentially, these concerns focus on the extent to which public appeals and litigation of Forest Service decisions to implement forest fuels reduction activities unnecessarily delay efforts to reduce fuels.

The Forest Service does not keep a national database on the number of forest fuels reduction activities that are appealed or litigated. Accordingly, GAO was asked to develop this information for fiscal years 2001 and 2002. Among other things, GAO was asked to determine (1) the number of decisions involving fuels reduction activities and the number of acres affected, (2) the number of decisions that were appealed and/or litigated and the number of acres affected, (3) the outcomes of appealed and/or litigated decisions, and (4) the number of appeals that were processed within prescribed time frames.

[www.gao.gov/cgi-bin/getrpt?GAO-04-52](http://www.gao.gov/cgi-bin/getrpt?GAO-04-52).

To view the full product, including the scope and methodology, click on the link above. For more information, contact Barry T. Hill at (202) 512-9775 or [hillbt@gao.gov](mailto:hillbt@gao.gov).

## FOREST SERVICE

# Information on Appeals and Litigation Involving Fuels Reduction Activities

## What GAO Found

In a GAO survey of all national forests, forest managers reported the following:

- In fiscal years 2001 and 2002, 818 decisions involved fuels reduction activities covering 4.8 million acres.
- Of the 818 decisions involving fuels reduction activities, about 24 percent were appealed—affecting 954,000 acres. However, of the 818 decisions, more than half, 486 decisions, could not be appealed because they involved activities with little or no environmental impact. Of the 332 appealable decisions, 194 (about 58 percent) were appealed. There can be multiple appeals per decision. In addition, 25 decisions (3 percent) affecting about 111,000 acres were litigated.
- For 73 percent of the appealed decisions, the Forest Service allowed the fuels reduction activities to be implemented without changes; 8 percent required some changes before being implemented; and about 19 percent could not be implemented. Of the 25 litigated decisions, 19 have been resolved.
- About 79 percent of appeals were processed within the prescribed 90-day time frame. Of the remaining 21 percent, the processing times ranged from 91 days to 240 days.

The Forest Service, in commenting on a draft of this report, generally agreed with the report's contents. Their specific comments and our evaluation of them are provided in the report.

**Summary of Forest Service Decisions and Appeals Information for Fiscal Years 2001 and 2002**

Decisions/Appeals	Little or no impact/Not appealable	Impacts initially uncertain or significant/ Appealable	Total for all decisions
Number of decisions	486	332	818
Number of appealed decisions	3	194	197
Percentage of decisions appealed	<1	58	24
Acreage (in thousands)	2,989	1,804	4,793
Acreage appealed (in thousands)	4	950	954
Percentage of acreage appealed	<1	53	20

Source: GAO data and analysis.

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United States General Accounting Office  
Washington, D.C. 20548

October 24, 2003

#### Congressional Requesters

Human activities—especially the federal government’s decades-old policy of suppressing all wildland fires—have resulted in dangerous accumulations of brush, small trees, and other vegetation on federal lands. This vegetation has increasingly provided fuel for large, intense wildland fires, particularly in the dry, interior western United States.

The scale and intensity of the fires in the 2000 wildland fire season made it one of the worst in 50 years. That season capped a decade characterized by dramatic increases in the number of wildland fires and the costs of suppressing them. These fires have also posed special risks to communities in the wildland-urban interface—where human development meets or intermingles with undeveloped wildland—as well as to watersheds and other resources, such as threatened and endangered species, clean water, and clean air.

The centerpiece of the federal response to the growing threat of wildland fires has been the development of the National Fire Plan. This plan, jointly developed by the Department of 4 0 Td.5Tj1g(pature fires an0 Td(De0 Td(nt o9 T3

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The first year that the National Fire Plan was in effect, the Congress substantially increased funding for hazardous forest fuels reduction for both the Forest Service and Interior agencies—from \$117 million in fiscal year 2000 to \$400 million in fiscal year 2001. The Congress continued this increased funding level for 2002 and 2003. Since the National Fire Plan began emphasizing the need to reduce forest fuels buildup and the Congress began to support this initiative with substantially increased funding, questions have been raised about whether the agencies' ability to implement forest fuels reduction activities is being unnecessarily delayed by administrative appeals and litigation of its land management decisions. Concerns have focused on the Forest Service, which, among the federal agencies involved in implementing the National Fire Plan, receives, by far, the largest portion of the funding—over 50 percent in fiscal years 2001 and 2002. Further, the scope of the Forest Service fuels reduction needs is much broader than those of the other federal agencies. Under current rules, members of the public are permitted to appeal and/or litigate the implementation of Forest Service decisions within certain prescribed time frames and under certain circumstances.

In this context, you asked us to develop national data on Forest Service fuels reduction activities. Specifically, for fiscal years 2001 and 2002, you asked us to determine (1) the number of decisions involving fuels reduction activities and the number of acres affected; (2) the number of decisions that were appealed and/or litigated and the number of acres affected; (3) the outcomes of the appealed and/or litigated decisions and the identities of the appellants and plaintiffs; (4) the number of appeals that were processed within the prescribed time frames; (5) the types of fuels reduction treatment methods identified in the decisions, the acreage affected, and how frequently these decisions were appealed; (6) the types of contracts used for implementing fuels reduction activities and how frequently decisions, including each type of contract, were appealed; and (7) the number of decisions involving fuels reduction activities in the wildland-urban interface and inventoried roadless areas<sup>1</sup> and how frequently these decisions were appealed. In addition to providing the national data in response to each objective, you also asked us to provide

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<sup>1</sup>The definition of an "inventoried roadless area" was provided in rulemaking on January 12, 2001. Litigants are currently challenging the rule's validity in court. The rule defines inventoried roadless areas as those areas identified in a set of inventoried roadless area maps contained in the Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000.

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regional data. This letter provides the national data. The regional breakdown for the seven objectives is shown in appendixes II through X.

In conducting our review, we used a Web-based survey of all 155 national forests<sup>2</sup>. The survey focused on all Forest Service decisions with fuels reduction activities that were issued in fiscal years 2001 and 2002. We obtained a 100 percent response rate from the national forests. We also tested the accuracy and reliability of the information provided in the responses and found that the information was generally reliable. Appendix I provides details on the scope and methodology of our review.

When we provided you with preliminary information on the results of our survey on May 14, 2003, we had not yet completed our data reliability checks.<sup>3</sup> Accordingly, we noted in that interim report that some of the information could change in our final report. In fact, now that our reliability checks have been completed, some of the information provided in our interim report has changed slightly. However, the relationships among the numbers have not materially changed. In our interim report, we also noted certain other limitations that still apply. Specifically, the survey information is self-reported. Accordingly, we were not able to independently ensure that all decisions were reported. In addition, the Forest Service does not have a common definition of “fuels reduction activities.” As a result, if the Forest Service documentation explicitly stated that the purpose of an activity was fuels reduction, we included it; if the documentation did not include an explicit discussion of fuels reduction activities, we did not include the decision in our analysis. Finally, the Forest Service does not have a uniformly applied definition of the “wildland-urban interface.” Consequently, individual forests may have their own definition or no definition at all, which could result in inconsistent data.

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<sup>2</sup>Our work focused only on national forests; we did not include national grasslands in our survey and analysis.

<sup>3</sup>U.S. General Accounting Office, *Forest Service: Information on Decisions Involving Fuels Reduction Activities*, [GAO-03-689R](#) (Washington, D.C.: May 14, 2003).

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## Results in Brief

In brief, the national forest managers reported the following:

- In fiscal years 2001 and 2002, 818 Forest Service land management decisions involved fuels reduction activities. These decisions covered 4.8 million acres. Most decisions involved routine activities that had little or no environmental impact.
- Of the 818 decisions involving fuels reduction activities, about 24 percent were appealed—affecting over 954,000 acres of fuels treatments. However, of the 818 decisions, more than half (486 decisions) are excluded from the appeals process because they involved activities with little or no environmental impact. Of the 332 appealable decisions, 194 were appealed—about 58 percent of the appealable decisions. A decision can be appealed multiple times. In addition, 25 decisions (about 3 percent) affecting about 111,000 acres were litigated.
- For 73 percent of the appealed decisions, the Forest Service allowed the activities to be implemented without changes; 8 percent were allowed to be implemented with some changes; and about 19 percent were not allowed to be implemented. Of the 25 decisions that were litigated, 19 have been resolved and 6 are ongoing. The parties settled 5 decisions, 9 were decided in favor of the plaintiffs, and 5 were decided in favor of the Forest Service. Most of the appellants and plaintiffs were interest groups.
- About 79 percent of all appeals were processed within the prescribed 90-day time frame. Of the remaining 21 percent, the processing times ranged from 91 days to 240 days.
- Of the 4.8 million acres that were treated or planned to be treated, prescribed burning was used on 3.2 million acres, and mechanical treatments were to be used on 0.8 million acres. The forest managers also reported using other methods, mostly firewood removal, on 1 million acres. Because the same acreage can be treated by more than one method, the sum is greater than the total acreage treated or planned for treatment. Decisions involving prescribed burning and mechanical treatment activities were appealed at about the same rate.
- The Forest Service generally used three types of contracts to carry out fuels reduction activities—service contracts, timber sale contracts, and stewardship contracts. Service contracts are awarded to contractors by

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the Forest Service to perform specific tasks to reduce forest fuels, such as thinning trees or clearing underbrush. The Forest Service awards timber sale contracts to individuals or companies to harvest and remove trees from federal lands under its jurisdiction. Stewardship contracts are essentially a combination of service and timber sale contracts aimed at conducting on-the-ground restoration and enhancement of landscapes with public and private entities. Service contracts are the most frequent contracting mechanisms used—356 of the 818 decisions. Decisions using timber sale contracts and stewardship contracts are the most frequently appealed.

- There were 462 decisions involving fuels reduction activities in the wildland-urban interface. Of these, 169 decisions were appealable and 89 decisions were appealed—53 percent of the appealable decisions and 19 percent of all decisions. Seventy-six decisions involved fuels reduction activities in inventoried roadless areas. Of these 76 decisions, 41 were appealable and 26 were appealed—63 percent of the appealable decisions and 34 percent of all decisions.

We received comments from the Forest Service on a draft of this report. The Forest Service generally agreed with the report's contents. The agency provided us with clarifying and technical comments that we incorporated into the report as appropriate. Comments from the Forest Service are reproduced in appendix XII.

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## Background

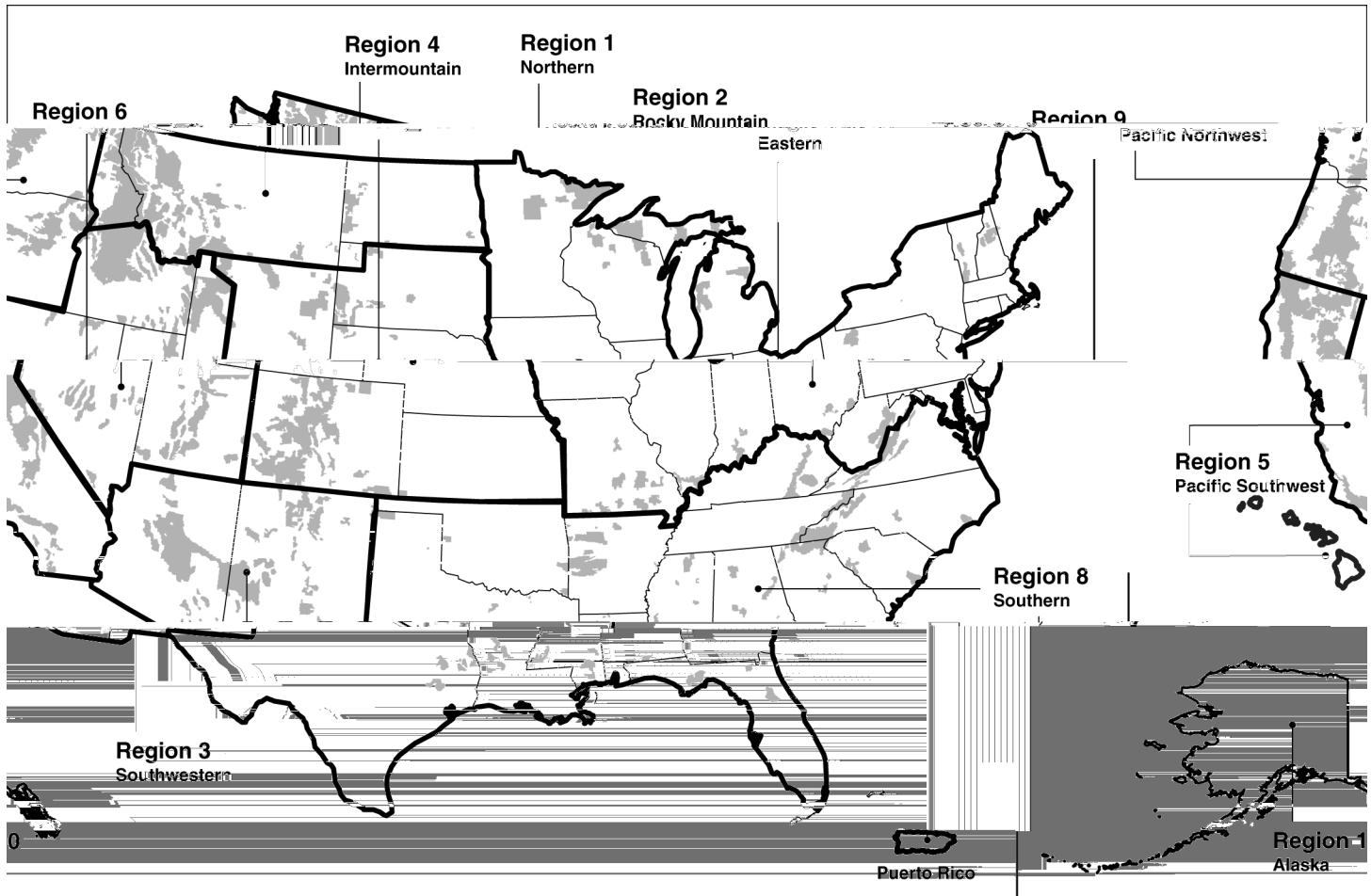
The 2000 and 2002 wildland fire seasons proved to be two of the worst in over 50 years. During the 2000 fire season, almost 123,000 fires burned more than 8.4 million acres and cost the federal government over \$1.3 billion. In 2002, almost 89,000 fires burned about 7 million acres, an area larger than the states of Maryland and Rhode Island combined. For decades, the federal wildland fire community pursued a policy of suppressing all fires as soon as possible. Over the years, suppressing fire in areas where it naturally occurred has caused an increase in the volume of brush, small trees, and other vegetation. The increase in such "forest fuels," combined with a severe drought in much of the nation over the past few years, has increased the severity of wildland fires. The result in some instances has been catastrophic. In 2002, the Rodeo-Chediski fire in Arizona, the Hayman fire in Colorado, and the Biscuit fire in Oregon and California became the largest fires in those states in more than a century.

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To deal with this threat, the administration asked the Forest Service and Interior to recommend how best to respond and how to reduce the impacts of such fires in the future. The resulting report and the associated implementation documents became known as the National Fire Plan. This blueprint recommended that the Congress substantially increase funding for several key activities, such as suppressing wildland fires and reducing the buildup of unwanted hazardous forest fuels. Of the federal agencies involved with helping to reduce the threat posed by wildland fires, the Forest Service is by far the most significant in terms of the broad range of forest activities that it is responsible for and the public attention it receives. Compared with the other federal land management agencies in fiscal years 2001 and 2002, the Forest Service received more than half of all funding provided for forest fuels reduction activities. For these fiscal years, the Congress provided the Forest Service with \$414 million for reducing hazardous fuels—the other land management agencies received \$381 million combined.

The Forest Service is responsible for managing over 192 million acres of public lands—nearly 9 percent of the nation's total surface area and about 30 percent of all federal lands in the United States. In carrying out its responsibilities, the Forest Service traditionally has administered its programs through nine regional offices, 155 national forests, 20 grasslands, and over 600 ranger districts (each forest has several districts). Figure 1 shows a map of the national forests and Forest Service regions.

**Figure 1: Lands Managed by the Forest Service, by Region**



Source: Forest Service.

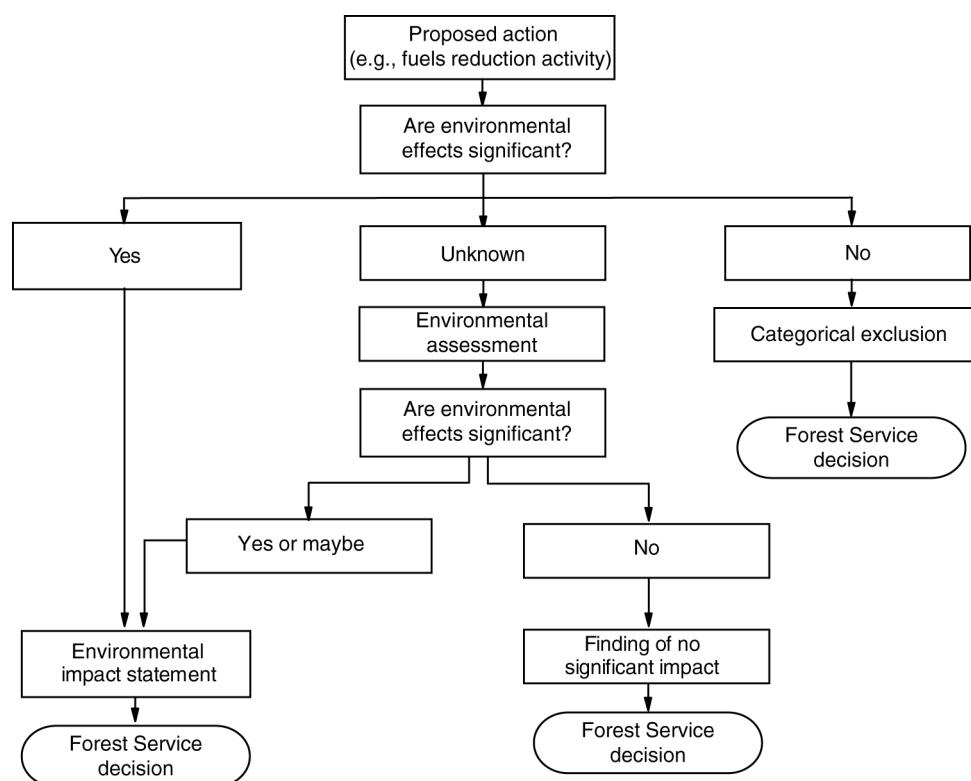
Note: The Forest Service does not have a region 7.

The National Environmental Policy Act requires the Forest Service, and all other federal agencies, to assess and report on the likely environmental impacts of any land management activities they propose that significantly impact environmental quality. For example, certain proposed Forest Service activities, such as fuels reduction projects, timber sales, and grazing allotments, may require such environmental analysis and reporting. More specifically, if a proposed activity is expected to significantly impact the environment, the Forest Service is required to prepare an



environmental impact statement. If, however, a proposed activity is unlikely to have a significant effect on the environment, the Forest Service is not required to prepare an environmental impact statement—such activities are classified as categorical exclusions. When the Forest Service is not sure whether an activity will have a significant impact on the environment, the agency prepares an intermediate-level analysis called an environmental assessment. If an environmental assessment determines that the activity will significantly affect the environment, the Forest Service prepares an environmental impact statement. (See fig. 2).

**Figure 2: National Environmental Policy Act Process**



Source: GAO.

Note: See U.S. General Accounting Office, *Forest Service Decision-Making: A Framework for Improving Performance*, [GAO/RCED-97-71](#) (Washington, D.C.: April 1997).

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Under certain circumstances, the public has a right to administratively appeal Forest Service decisions.<sup>4</sup> These appeals must be evaluated by the Forest Service within prescribed time frames and could result in decisions being reversed and the associated land management activities being substantially revised or even cancelled. Generally, the public can appeal decisions associated with environmental impact statements or environmental assessments. Decisions associated with categorical exclusions are generally not appealable. Further, as a general rule, once the administrative appeals process is complete, the public can litigate any decision, including categorical exclusions, in federal court.

Controversy has surrounded this issue for some time. On the one hand, critics have asserted that administrative appeals and litigation are stopping or unnecessarily slowing the decision-making processes of the Forest Service and their efforts to reduce forest fuels on federal lands. They expressed the view that many appeals are “frivolous” and brought for the purpose of frustrating, rather than improving, land management actions, and that they greatly increase the costs of managing the national forests. Supporters of the current process, on the other hand, have responded that appeals have not been excessive or unwarranted, that few appeals are frivolous, and that the current process for handling appeals is adequate. Supporters further assert that the Congress intended the federal land management process to include administrative reviews of agency decisions to (1) ensure public participation in the decision-making process and (2) ensure that agency managers adequately consider the various factors and policies impacting the environmental health of the nation’s lands.

Recent administrative rule changes and legislative proposals modify or would modify the current appeals process and exempt certain projects from the process. In August 2002, the administration announced the Healthy Forest Initiative, which has been controversial as well; some regarding it as an effort to reduce unnecessary red tape and needless delays and others considering it a tool to increase logging activity. The initiative is intended to help reduce the threat of catastrophic wildfires and improve the health of the national forests by, among other things, streamlining the planning and appeals processes. In particular, recent administrative rule

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<sup>4</sup>The Forest Service has had an administrative appeals system in place for almost all of its nearly 100-year existence. The specific requirements of the appeals system have changed over the years. The appeal procedures that apply to fiscal years 2001 and 2002 appeals implement the Appeals Reform Act of 1993. Discussion of appeals procedures in this report is based on the regulations in effect in 2001 and 2002, unless otherwise specified.

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changes modify the appeal procedures and establish new categorical exclusions for certain fuels reduction projects. The Congress is also considering legislation to, among other things, exempt certain fuels reduction activities from the existing appeal requirements. The bill would require the Secretary of Agriculture to issue regulations establishing a separate administrative process to address disputes concerning these projects.

The debate surrounding the Healthy Forest Initiative centers on the extent and frequency of appeals and litigation of fuels reduction activities. However, because the Forest Service does not have a national database to track both its decisions involving forest fuels reduction activities and the extent to which they were appealed or litigated, we were asked to develop this information. The information in this report provides these data for fiscal years 2001 and 2002.

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## The Number of Decisions Involving Forest Fuels Reduction Activities and the Number of Acres Affected

For fiscal years 2001 and 2002, the national forest managers reported that there were 818 decisions involving forest fuels reduction activities. These decisions affected almost 4.8 million acres of national forest land. Most of these decisions were excluded from detailed environmental impact analysis because the Forest Service determined that they had little or no significant impact on the land.

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### Number of Decisions

Of the 818 decisions involving forest fuels reduction activities, the forest managers reported that 52 of the decisions (about 6 percent) were expected to have significant environmental impacts, thus requiring the preparation of environmental impact statements. About 280 of the decisions (about 34 percent) initially had the potential for some environmental impact and required the preparation of environmental assessments. All of the remaining decisions (486 or about 59 percent) involved activities that had no or only minor environmental impacts and, as such, were categorically excluded from documentation in an environmental assessment or an environmental impact statement.

In reporting these data, it is important to emphasize that the Forest Service does not have a uniform definition of a fuels reduction activity. The lack of a uniform definition is an important limitation because it could affect the

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consistency of the data reported to us by the national forests in terms of which activities are identified as fuels reduction projects. Accordingly, if the supporting Forest Service decision documents explicitly stated that the purpose of the activities was fuels reduction, we accepted the decision. However, if the decision documents did not include an explicit discussion of fuels reduction, we did not accept the decision. Many activities have the practical effect of reducing forest fuels, but the purpose may be for something other than fuels reduction. For example, a tree thinning activity may reduce fuels, but the stated purpose of the project may be to treat an insect infestation. If so, fuels reduction would not be a designated purpose of the activity, and the decision was not included in our analysis. In addition, a commercial timber harvest will reduce fuels by removing trees, but the stated purpose may be commodity production. If so, the decision was not included in our analysis. If the commercial timber sale or thinning activities included a stated purpose of reducing fuels, the decision was included in our analysis.

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## Amount of Acreage Affected

The forest fuels reduction decisions for fiscal years 2001 and 2002 covered almost 4.8 million acres of national forest land. Of the 4.8 million acres, the forest managers reported that 0.3 million acres (about 7 percent) involved activities that were expected to have significant environmental impacts, thus requiring the preparation of environmental impact statements. About 1.5 million acres (about 31 percent) involved activities that initially had the potential for some environmental impact and required the preparation of environmental assessments. All of the remaining acreage (3.0 million or about 62 percent) involved activities that had no or only minor environmental impacts and, as such, were categorically excluded from preparation of a detailed environmental impact analysis.

There are a few limitations to the acreage data. The 4.8 million acres does not correspond to the number of acres actually treated in fiscal years 2001 and 2002. Once a decision is made and documented, there are many reasons that activities covered by decision may be delayed or not implemented, including funding availability, personnel availability, weather conditions, and administrative appeals or litigation. In addition, the national forests may have submitted more than one decision with activities on the same area of land. Therefore, the 4.8 million acres may include overlapping acreage. Further, the national forest managers reported decisions involving personal firewood activities, including one large project from the Tonto National Forest in Arizona that could potentially skew the acreage data. Under the personal firewood program, forest

managers designate areas where the public can obtain a wood cutting permit and gather firewood for personal use. Forest managers can identify all of the acreage available for firewood removal under this program as fuels reduction activities. However, it is possible that the public may collect only firewood that is easily accessible, such as near roads and trails, rather than covering the entire designated area. One decision from the Tonto National Forest in Arizona designates 1 million acres as eligible for firewood removal. These 1 million acres are 21 percent of the total acreage reported as treated or planned to be treated for fuels reduction activities for all national forests. According to Forest Service officials, it is unlikely that the public will remove fuels from all 1 million acres.

Table 1 shows the number of decisions with forest fuels reduction activities, the amount of acreage affected, and their environmental impact significance.

**Table 1: Decisions with Fuels Reduction Activities and Acreage Affected, by Decision Type, Fiscal Years 2001 and 2002**

<b>Decisions/Acres</b>	<b>Little or no environmental impact (categorical exclusions)<sup>a</sup></b>	<b>Uncertain environmental impact (environmental assessments)<sup>b</sup></b>	<b>Significant environmental impact (environmental impact statements)</b>	<b>Total<sup>c</sup></b>
Number of decisions	486	280	52	<b>818</b>
Percentage of total decisions	59	34	6	<b>99</b>
Number of acres (in thousands)	2,989	1,489	315	<b>4,793</b>
Percentage of total acres	62	31	7	<b>100</b>

Source: GAO data and analysis.

<sup>a</sup>One activity covered by a categorical exclusion treats approximately 1 million acres under an annual program to allow private individuals to collect firewood.

<sup>b</sup>Although the forest managers analyzed the proposed activities in an environmental assessment because the expected environmental impacts were uncertain or potentially significant, in every case, the result of the environmental assessment was a determination that the proposed activities had no significant impact on the environment.

<sup>c</sup>Percentage totals may not add to 100 percent due to rounding.

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Appendix II provides a summary of the number of decisions and the acreage affected for each of the nine Forest Service regions.

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## The Number of Decisions Involving Forest Fuels Reduction Activities Appealed and Litigated and the Amount of Acreage Affected

Of the 818 decisions involving forest fuels reduction activities, 24 percent were appealed. However, more than half were not subject to appeal because they were categorically excluded from documentation in an environmental impact statement or environmental assessment. Overall, of the 818 total decisions, 332 were appealable because they had environmental impacts that were either uncertain or significant and required the preparation of an environmental assessment or environmental impact statement. Of these 194 (58 percent) were appealed. These appealed decisions affected about 950,000 acres. In addition, 25 decisions (about 3 percent of all decisions) were litigated. The litigated decisions affected about 111,000 acres.

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## Number of Decisions and Amount of Acreage Appealed

In fiscal years 2001 and 2002, 486 (59 percent) of all decision involving fuels reduction activities were not subject to appeal.<sup>5</sup> The remaining 332 decisions involved forest fuels reduction activities that were generally more controversial because they were expected to have significant environmental impact or initially had the potential for significant environmental impacts. Of the 332 appealable decisions, 194 were appealed affecting over 950,000 acres. Table 2 summarizes the number of decisions appealed by decision type and the number of acres affected.

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<sup>5</sup>The 486 decisions that were exempt from the Forest Service appeals process affected about 3.0 million acres or about 62 percent of the acreage involving forest fuels reduction activities in fiscal years 2001 and 2002. Generally, categorical exclusions are not appealable. However, three categorical exclusions were reported as appealed due to a settlement agreement in a lawsuit.

**Table 2: Decisions with Fuels Reduction Activities That Were Appealed and Acreage Affected, by Decision Type, Fiscal Years 2001 and 2002**

<b>Decisions/Acres</b>	<b>Little or no environmental impact (categorical exclusions)<sup>a</sup></b>	<b>Uncertain environmental impact (environmental assessments)<sup>b</sup></b>	<b>Significant environmental impact (environmental impact statements)</b>	<b>Total for all decisions</b>	<b>Total for appealable decisions<sup>a</sup></b>
Number of decisions	486	280	52	<b>818</b>	<b>332</b>
Number of appealed decisions	3	146	48	<b>197</b>	<b>194</b>
Percentage of decisions appealed	<1	52	92	<b>24</b>	<b>58</b>
Acreage (in thousands)	2,989	1,489	315	<b>4,793</b>	<b>1,804</b>
Acreage appealed (in thousands)	4	670	280	<b>954</b>	<b>950</b>
Percentage of acreage appealed	<1	45	89	<b>20</b>	<b>53</b>

Source: GAO data and analysis.

<sup>a</sup>Generally, only environmental assessments and environmental impact statements are appealable. Categorical exclusions are generally not appealable. However, there were three categorical exclusions reported to us that were appealed under a settlement agreement in a lawsuit.

<sup>b</sup>Although the forest managers analyzed the proposed activities in an environmental assessment because the expected environmental impacts were uncertain or potentially significant, in every case, the result of the environmental assessment was a determination that the proposed activities had no significant impact on the environment.

In reviewing the appeals data in table 2, it is important to point out that many types of land management activities may be analyzed and included as part of one decision. A single decision may include activities such as timber sales, road construction, grazing permits, and habitat improvement in addition to fuels reduction activities. As a result, when an appeal is pursued, it may or may not be based on concerns about fuels reduction activities. Under the Forest Service appeal regulations, the entire decision is appealed, not the individual activities. Therefore, the public may object to only one activity in a decision but all land management activities covered by the decision will be affected by an appeal. For example, a single decision may contain activities involving commercial thinning, prescribed burning, stream improvements, road construction, and a trail closure. An appellant may object to the road construction activity but not the forest thinning activities. However, all of the activities covered by a decision will be affected until the appeal is resolved.

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There is no limit to the number of appeals that can be filed on an individual decision. In total, appellants filed 285 appeals on the 197 appealed decisions. One hundred and thirty-four decisions had 1 appeal, 48 decisions had 2 appeals, 10 decisions had 3 appeals, 3 decisions had 4 appeals, 1 decision had 5 appeals, and 1 decision had 8 appeals.

Appendix III provides information on appeal rates for each Forest Service region.

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**Number of Litigated  
Decisions with Fuels  
Reduction Activities and  
Acreage Affected**

All decisions can be litigated. In fiscal years 2001 and 2002, 25 decisions (about 3 percent) were litigated.<sup>6</sup> These litigated decisions affected about 111,000 acres (about 2 percent). Not surprisingly, decisions with significant environmental impacts were litigated more often. Of the 52 decisions where the Forest Service was required to prepare environmental impact statements, 15 (29 percent) were litigated. Table 3 provides a summary of the decisions litigated and the acres affected by the litigation.

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<sup>6</sup>More than one decision can be litigated in one court case. The 25 decisions correspond to 21 court cases.



**Table 3: Litigated Decisions with Fuels Reduction Activities and Acreage Affected, by Decision Type, Fiscal Years 2001 and 2002**

<b>Decisions/Acres</b>	<b>Little or no environmental impact (categorical exclusions)</b>	<b>Uncertain environmental impact (environmental assessments)<sup>a</sup></b>	<b>Significant environmental impact (environmental impact statements)</b>	<b>Total</b>
Number of decisions	486	280	52	<b>818</b>
Number of decisions litigated	0	10	15	<b>25</b>
Percentage litigated	0	4	29	
Acreage (in thousands)	2,989	1,489	315	<b>4,793</b>
Acreage litigated (in thousands)	0	23	88	<b>111</b>
Percentage of acres litigated	0	2	28	

Source: GAO data and analysis.

<sup>a</sup>Although the forest managers analyzed the proposed activities in an environmental assessment because the expected environmental impacts were uncertain or potentially significant, in every case, the result of the environmental assessment was a determination that the proposed activities had no significant impact on the environment.

Appendix III provides information on the number of litigated decisions, by Forest Service region.

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## Outcomes of Appealed and Litigated Decisions and the Identities of Appellants and Plaintiffs

Of the 197 appealed decisions the Forest Service reviewed, 144 (about 73 percent) were allowed to be implemented without any changes. However, the Forest Service did not allow 38 decisions (about 19 percent) to be implemented. The Forest Service required the remaining 15 decisions (about 8 percent) to be changed prior to implementation. Of the 25 litigated decisions, 19 have been resolved and 6 were still ongoing at the time of our review. Most of the appellants and plaintiffs were interest groups.

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## Outcomes of the Appeals and the Identities of Appellants

Generally, appealed decisions have one of three outcomes. First, the Forest Service can allow a decision to be implemented without any changes. Second, the Forest Service can allow a decision to be implemented, but only if certain, specified changes are made. Third, the Forest Service can prevent a decision from being implemented. There are a variety of factors that can affect the disposition of an appeal and lead to these outcomes. Each of these factors is specified in Forest Service regulations. Some of these factors are procedural and have little or nothing to do with the merit of an appeal, and some are based on the merit of the appeal. Table 4 provides a brief summary of the three basic decision outcomes and an explanation of the factors that can lead to various appeal outcomes.

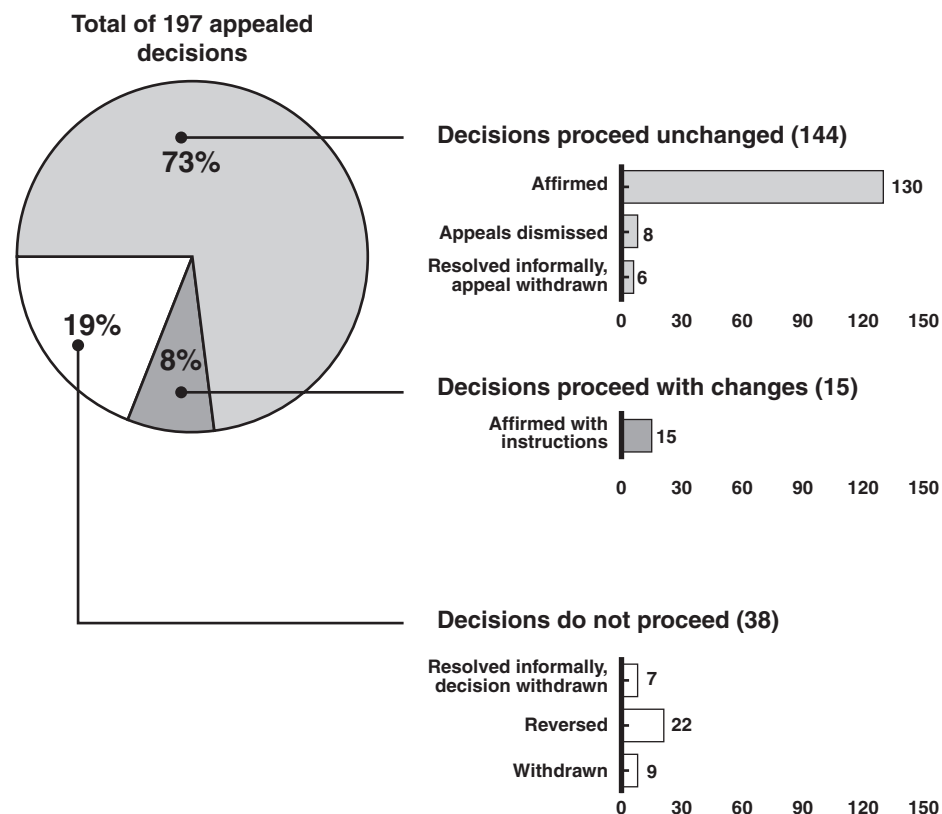
**Table 4: Summary of Possible Decision Outcomes and Factors That Can Lead to the Outcomes**

Possible decision outcomes	Forest Service disposition of appeal	Explanation of Forest Service disposition terminology
Can be implemented without changes	Decision affirmed	Forest Service reviews the appeal and determines that the decision documents adequately address all legal requirements.
	Appeals dismissed	Forest Service dismisses the appeal without review for procedural reasons, such as if the appeal was not filed within the allowed appeal period.
	Resolved informally, appeal withdraw	Forest Service contacts appellants and offers to discuss resolution of the appeal. If resolved, the appellant withdraws the appeal.
Can be implemented with changes	Affirmed with instructions	Forest Service reviews appeal and requires certain changes to the decision on the basis of the appeal points. The decision can be implemented with specified changes.
Cannot be implemented	Reversed	Forest Service reviews the appeal and determines that the decision documents did not consider comments previously provided or comply with applicable law, regulation, or policy. Forest Service returns the decision to the national forest for further analysis or documentation.
	Resolved informally, decision withdrawn	Forest Service contacts appellants and offers to discuss resolution of the appeal. If resolved, the Forest Service withdraws the decision.
	Decision withdrawn	Forest Service withdraws the decision prior to the agency concluding the appeal review.

Source: GAO data and analysis.

Figure 3 shows the disposition of each of the 197 appealed decisions for fiscal years 2001 and 2002.

**Figure 3: Frequency of Appeal Outcomes and Dispositions**



Source: GAO data and analysis.

Appendix IV provides a summary of the appeal outcomes, by region.

Under certain circumstances, members of the public, including private individuals and interest groups, can appeal decisions of Forest Service officers.<sup>7</sup> A decision can be appealed multiple times and multiple appellants can be parties to an appeal. For example, the Little Blacktail Ecosystem Restoration Project Record of Decision issued in the Kaniksu National Forest in Idaho had three appeals; the Ecology Center, Lands

<sup>7</sup>The Appeals Reform Act of 1993 (§ 322 of the Department of the Interior and Related Agencies Appropriations Act for Fiscal Year 1993) states that any person who was involved in the public comment process through submission of written or oral comments or by otherwise notifying the agency of their interest in the proposed action may file an appeal.

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Council, Kootenai Environmental Alliance, and Friends of the Pond joined in one appeal; the Alliance for the Wild Rockies filed another appeal; and a private individual filed the third appeal. In these instances, each interest group and the private individual counted as appellants—6 total appellants—even though they were appealing 1 decision and had filed 3 appeals. Due to these situations, there were 285 appeals on the 197 appealed decisions. The 285 appeals had 559 appellants. The 559 appellants included 482 appeals by 85 different interest groups, mostly environmental groups, and 77 appeals by 53 private individuals. Table 10 of appendix V lists each interest group that appeared as an appellant in fiscal years 2001 and 2002 and the number times they appeared. Of the interest groups, 7 appeared as appellants 20 or more times. These groups include the Alliance for the Wild Rockies, Ecology Center, Forest Conservation Council, Lands Council, National Forest Protection Alliance, Oregon Natural Resources Council, and Sierra Club.

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## Outcomes of Litigated Decisions and the Identities of Plaintiffs

Following a final decision by the Forest Service on an appeal, members of the public, can file a lawsuit and seek a review of the decision from a federal district court. Plaintiffs are usually the same parties who previously appealed the decisions with the Forest Service. It may take weeks to years to resolve a case once a decision is litigated. Of the 25 litigated decisions, 6 were continuing at the time of our analysis. For the remaining 19 cases, lawsuits for 5 decisions were dismissed because the plaintiffs and the Forest Service agreed to settle their claims. District courts reached an outcome on the 14 remaining decisions—9 decisions were decided favorably to the plaintiffs, and 5 decisions were decided favorably to the Forest Service. Both plaintiffs and the Forest Service have the option of appealing the decisions of the district court to the relevant federal court of appeals. We did not collect information on whether the decisions were appealed to a higher court.

Appendix V provides information on the outcomes of litigated decisions, by region.

Multiple plaintiffs can be parties to a lawsuit. Of the 25 litigated decisions, 26 different interest groups and one private individual were plaintiffs. The interest groups were primarily environmental groups. Five groups were plaintiffs in 4 or more decisions: the Ecology Center, Sierra Club, Oregon Natural Resources Council, Hell's Canyon Preservation Council, and Native Ecosystems Council.

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Appendix VI provides a summary of the litigants, by Forest Service region.

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## The Number of Decisions That Were Processed Within Prescribed Time Frames

Most of the appeals that occurred in fiscal years 2001 and 2002 were processed within the prescribed time frames. Specifically, of the 285 appeals that were filed, about 79 percent were processed within the prescribed 90 days.

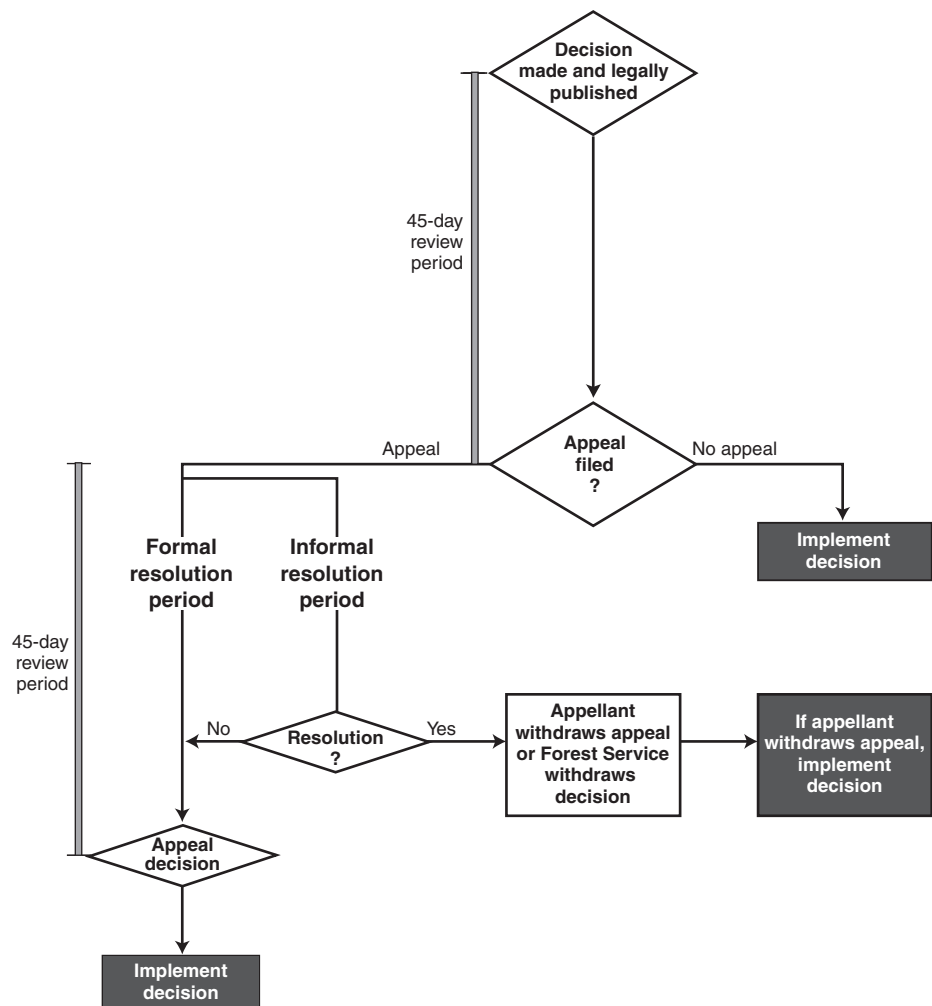
The applicable laws and regulations establish procedures for public notice of a decision and the time frames for appeal.<sup>8</sup> Once the public is given notice of a decision, appellants have 45 days to file an appeal. If an appeal is filed, the Forest Service has 45 days from the close of the appeal period to determine the outcome of the appeal. In total, the Forest Service has up to 90 days to resolve an appeal once the agency notifies the public of a decision. While the agency is determining the disposition of an appeal, a Forest Service official is required to contact an appellant and offer to meet informally to dispose of the appeal. Figure 4 provides a flowchart showing the appeals process that applied during fiscal years 2001 and 2002.<sup>9</sup>

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<sup>8</sup>The Appeals Reform Act of 1993 established the specific time frames. Pending legislation (H.R. 1904) would exempt fuels reduction projects from the Appeals Reform Act and require the Secretary of Agriculture to establish separate appeals procedures for these projects. The Forest Service recently amended its appeals regulations to, among other things, extend the comment period for projects with environmental impact statements to 45 days. The amendment did not affect either the filing period or the formal disposition period—each remains 45 days.

<sup>9</sup>On June 4, 2003, the Forest Service issued a final rule modifying certain provisions of the appeals process.

**Figure 4: Forest Service Appeals Process, Fiscal Years 2001 and 2002**



Source: GAO.

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Of the 285 appeals filed in fiscal years 2001 and 2002, 226 (79 percent) were processed within 90 days of the date that the decisions were made and published. In contrast, 59 appeals (about 21 percent) were not processed within 90 days. For those appeals that were not processed within the 90-day limit, the appeal processing times ranged from 91 to 240 days, with a median processing time of 119 days.<sup>10</sup> The Forest Service offered several reasons for not processing the 59 appeals within the 45-day formal disposition period. These reasons included inadequate staffing, the unavailability of staff around the holiday season, and appeal backlog. We did not verify or analyze the support for the reasons that the Forest Service provided.

Further, to fully understand the appeals process, it is important to understand that under certain circumstances, appellants may have more than one opportunity to appeal a decision. Once a decision is reversed or withdrawn by the Forest Service as a result of an appeal, the agency can revise and reissue the decision. This is usually done to accommodate concerns that have been raised during an initial appeal. Moreover, the Forest Service also has the option of not reissuing the decision. In our analysis, 32 decisions had been reissued. Of those reissuances, 30 were appealed again and 2 were implemented without appeal. Once a decision is reissued, the permitted processing times for handling appeals begin again.

Appendix VII provides a summary of the appeals processing times for each Forest Service region.

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<sup>10</sup>If an appeal is filed, a decision may not be implemented until 15 days after the outcome of the appeal is determined. However, an “emergency mechanism” permits the Forest Service Chief to implement a decision even if an appeal was filed. This mechanism was not used in fiscal year 2001 or 2002.



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## The Types of Fuels Reduction Treatment Methods Identified in the Decisions, the Acreage Affected, and How Frequently These Decisions Were Appealed

Reducing the buildup of vegetation that fuels severe fires requires vegetation management, or fuels reduction. There are four basic fuels treatment methods. These are prescribed burning, mechanical thinning, the application of chemicals/herbicides, and grazing. Prescribed burning is the most frequently used method to reduce the accumulation of dangerous fuels on forested acres. Decisions involving the two main types of fuels treatment methods, prescribed burning and mechanical treatment, were appealed at about the same rate.

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## Frequency of Use and Scope of Treatment Methods

A prescribed fire is one that is intentionally ignited to meet specific land management objectives. In addition to reducing the risk of wildfires, prescribed fires also are used to prepare areas for reforestation or to improve wildlife habitat. How and when a prescribed fire can be successfully conducted is influenced by many conditions, such as the type and moisture levels of vegetation, topography, temperature, wind speed, and humidity. All of these factors are to be considered and documented by fire management personnel prior to initiating a prescribed burn. Figures 5 and 6 show examples of a prescribed burn.

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**Figure 5: Members of Fire Crew Igniting a Prescribed Burn with Drip Torches**



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**Figure 6: Prescribed Fire Being Used for Fuels Reduction**



Source: Forest Service.

Prescribed burning was the most frequently used fuels treatment method during fiscal years 2001 and 2002—in terms of both the number of decisions that included prescribed burning activities and the number of acres affected. Of the 818 decisions with fuels reduction activities, 570 (about 70 percent) included prescribed burns. Of the total 4.8 million acres covered by all decisions, 3.2 million acres (about 67 percent) had been or were to be treated using this method.

There is a range of mechanical treatments that can be used to reduce forest fuels. Harvesting timber and removing smaller noncommercial trees and brush can accomplish fuels reduction. In addition, thinning stands of trees to reduce competition for light, moisture, and nutrients may improve forest health. Mechanical thinning is typically done using power equipment, such as bulldozers, chain saws, chippers, and mulchers. Figures 7 and 8 show examples of mechanical thinning projects.

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**Figure 7: Bulldozer Piling Thinned Trees (Machine Piling)**



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**Figure 8: Use of Chain Saw to Mechanically Thin Trees**



Mechanical thinning is the second most utilized method for reducing forest fuels. Of the 818 decisions with fuels reduction activities, 491 (about 60 percent) included mechanical treatment methods. These treatments involved 0.8 million acres—about 17 percent of all the acreage treated or planned for treatment in fiscal years 2001 and 2002.

Chemical treatments are herbicides used to control and remove the hazardous buildup of forest vegetation. Herbicides are usually applied as liquids mixed with water or oil and then sprayed on the soil surface to be absorbed by the plant roots. Generally, there are four methods of applying herbicides: (1) aerial application, using helicopters or other aircraft; (2) mechanical equipment, using truck-mounted or truck-towed wand or broom sprayers; (3) backpack equipment, generally a pressurized container with an agitation device; and (4) hand application by injection, daubing cut surfaces, or application of granular formulations to the soil.

Grazing animals, such as cattle and goats, can also be used to reduce the buildup of hazardous forest fuels. However, grazing is less utilized because it is increasingly competing with other uses of public lands, such as

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recreation, wildlife habitat, riparian management, endangered species management, mining, hunting, cultural resource protection, wilderness, and a wide variety of other uses.

Chemical treatments and grazing are the least utilized treatment methods. Of the 818 fuels reduction decisions reported, 3 (less than 1 percent) included chemical/herbicide treatments, and 2 (less than 1 percent) included grazing. These two types of treatment methods affected about 700 acres—less than 1 percent of the total acres treated or planned for treatment in fiscal years 2001 and 2002.<sup>11</sup>

In addition to the four basic hazardous fuels treatment methods, there are other methods that are sometimes used. These other methods include activities such as cutting underbrush by hand or the public's removal of firewood by hand. One hundred and twelve (14 percent) of all fuels reduction decisions in fiscal years 2001 and 2002 included these other kinds of treatments. However, while the use of the other methods was relatively infrequent, the amount of acreage affected was considerable—mostly due to the 1 million acre personal fire wood removal program from the Tonto National Forest in Arizona. There are two important points that need to be highlighted regarding this fire wood removal program. First, while the project covers 1 million acres, it does not necessarily mean that firewood will be removed from all of these acres. It simply means that these acres are available for the removal of firewood. Accordingly, the extent of fuels reduction on these acres is not clear. It is possible that the number of acres actually reported for the project can be significantly overstated. Second, even though officials at the Tonto National Forest reported this as part of the forest fuels reduction program, Forest Service headquarters officials questioned the merit of including it in our report because they believed it skewed the data by increasing the amount of acreage having fuels reduction activities. In the final analysis, we reported this project as a fuels reduction activity because the Tonto forest officials identified it as such in their decision documents. Table 5 summarizes the fuels reduction methods used by the Forest Service in fiscal years 2001 and 2002.

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<sup>11</sup>Four of these 5 decisions reported affecting the 700 acres. One decision did not report any associated acreage.

**Table 5: Decisions with Fuels Reduction Activities and the Acreage Affected, by Treatment Methods, Fiscal Years 2001 and 2002**

Treatment method	Number of decisions	Number of acres <sup>a</sup> (in thousands)	Percentage of total decisions	Percentage of total acres
Prescribed burning				

**Table 6: Analysis of Appeal Rates, by Type of Fuels Reduction Treatment Method, Fiscal Years 2001 and 2002**

Treatment method	Number of decisions <sup>a</sup>	Number of appealable decisions <sup>b</sup>	Number of appealed decisions	Appeal rate for all decisions (%)	Appeal rate for appealable decisions (%)
Prescribed burning	570	258	163	29	63
Mechanical	491	265	169	34	64
Chemical/Herbicide	3	3	2	67	67
Grazing	2	0	0	0	N/A
Other	112	51	26	23	51

Source: GAO data and analysis.

<sup>a</sup>Because more than one treatment method can be used on the same decision, the numbers add to more than the total decisions (818).

<sup>b</sup>This column shows the number of decisions involving environmental assessments and environmental impact statements. Since categorical exclusions generally cannot be appealed, they are not included in this column.

An analysis of the data shown in table 7, on the basis of the amount of acreage affected, shows that decisions with prescribed burning covered the most acreage appealed.



**Table 7: Analysis of Acreage Affected by Appeals for Each Type of Fuels Reduction Treatment Method, Fiscal Years 2001 and 2002**

Treatment method	Acreage for all decisions <sup>a</sup> (in thousands)	Acreage covered by appealable decisions <sup>b</sup> (in thousands)	Acreage covered by appealed decisions (in thousands)	Percentage of acreage affected for all decisions	Percentage of acreage affected for appealable decisions
Prescribed burning	3,189	1,484	758	24	51
Mechanical	808	651	336	42	52
Chemical/Herbicide	0.4	0.4	0.3	64	64
Grazing <sup>c</sup>	0.3	0	0	0	0
Other	1,021	18	11	1	61

Source: GAO data and analysis.

<sup>a</sup>Because more than one treatment method can be used on the same acreage, the numbers add to more than the total amount of acreage treated or planned for treatment (4.8 million).

<sup>b</sup>This column shows the number of acres involving environmental assessments and environmental impact statements. Since categorical exclusions cannot be appealed, the acreage for these is not included in this column.

<sup>c</sup>One of the 2 decisions using grazing as a fuels treatment method did not report any associated acreage.

Appendix VIII provides data on treatment methods and appeal rates, by Forest Service region.

## Types of Contracts Used in Decisions with Fuels Reduction Activities and How Frequently Decisions Involving the Contract Types Were Appealed

Typically, the Forest Service contracts with other organizations to carry out fuels reduction activities in the national forests. In doing this, the agency generally uses three types of contracting mechanisms—timber sale contracts, service contracts, and stewardship contracts. A decision can use more than one type of contract to carry out fuels reduction activities. The Forest Service awards timber sale contracts to individuals or companies to harvest and remove trees from federal lands under its jurisdiction. Service contracts are awarded to contractors by the Forest Service to perform specific tasks to reduce forest fuels, such as thinning trees or clearing underbrush. Stewardship contracts are used by the Forest Service to conduct on-the-ground restoration and enhancement of landscapes with public and private entities. Service contracts are the most frequent contracting method used. Decisions using timber sale contracts and stewardship contracts are the most frequently appealed.

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## Types of Contracts Used in Decisions with Fuels Reduction Activities

Forest Service timber sale contracts set forth specific terms and provisions of a sale, including the estimated volume of timber to be removed, the time period of the removal, the price to be paid to the government, and the environmental protection measures to be taken. Of the 818 total fuels reduction decisions, 278 (34 percent) involved timber sale contracts.

The Forest Service also uses traditional service contracts to reduce the accumulation of fuel loads. Typically, a service contract identifies the tasks to be performed, such as removing and treating the unmarketable, cut materials. The cut materials affect the fuel loads and can be left as is, piled and burned, lopped and scattered to accelerate rotting, or removed from the site. Of the 818 total fuels reduction projects, 356 (44 percent) of the decisions involved service contracts.

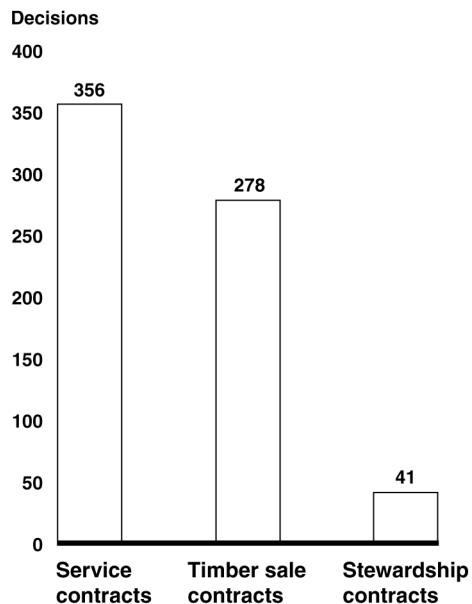
Stewardship contracts use a combination of service contracts and timber sale contracts to care for national forest system land. In 1998, the Forest Service was given stewardship contracting authority so that the agency could work with private and public entities to achieve federal management goals. For example, this authority provided the Forest Service with the ability to trade goods for services (such as timber in exchange for road maintenance). A stewardship contract might include prescribed burning to improve wildlife habitat or reduce forest fuels in conjunction with the sale of forest products off the same piece of land. Of the 818 total fuels reduction decisions, 41 (5 percent) of the decisions involved stewardship contracts.<sup>12</sup>

Figure 9 shows the frequency of service, timber sale, and stewardship contracts used in decisions with fuels reduction activities.

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<sup>12</sup>In 2003, the Congress significantly expanded the scope of the stewardship contracting program. See section 323 of Public Law 108-7, the Consolidated Appropriations Resolution, 2003. None of the projects we examined were subject to the new legislation.

**Figure 9: Frequency of Service, Timber Sale, and Stewardship Contracts Used in Decisions with Fuels Reduction Activities, Fiscal Years 2001 and 2002**



Source: GAO data and analysis.

Note: More than one contract type can be used in one decision.

The total number of decisions in figure 9 does not total 818 because there are also other means used to implement fuels reduction activities. Forest Service personnel are frequently used to perform the needed work. Typically, Forest Service personnel are used in conjunction with different contract types. Of the 818 decisions, 673 (82 percent) involved some work by Forest Service personnel. Further, other means, such as contracts that utilize prison labor and contracts that collaborate with other federal agencies like the Bureau of Land Management, are also used to help reduce forest fuels. Eighty-three (10 percent) of all 818 decisions with fuels reduction activities used these other mechanisms.

## Appeal Rates for Decisions with Each Contracting Mechanism

Decisions that are implemented through the use of timber sale contracts and stewardship contracts were the most frequently appealed. Because of the controversy that surrounds timber harvesting activities and their impact on the environment, it is not surprising that contracts for this type

of activity would be scrutinized and challenged by the forest interest groups or other stakeholders.

**Table 8: Analysis of Appeal Rates by Each Type of Contracting Mechanism, Fiscal Years 2001 and 2002**

Contract type	Number of decisions <sup>a</sup>	Number of appealable decisions <sup>b</sup>	Number of appealed decisions	Percentage appealed for all decisions	Percentage appealed for appealable decisions
Timber sale	278	244	155	56	64
Service	356	205	123	35	60
Stewardship	41	31	23	56	74

Source: GAO data and analysis.

<sup>a</sup>The total number of decisions is less than the 818 decisions reported because the other methods used for implementation are not included. In addition, more than one contact type can be used in one decision.

<sup>b</sup>These are the number of decisions involving environmental assessments and environmental impact statements. Since categorical exclusions generally cannot be appealed, they are not included in this column.

Appendix IX summarizes the contracting methods used and appeal rates, by Forest Service region.

## Number of Decisions with Fuels Reduction Activities in the Wildland-Urban Interface and Inventoried Roadless Areas and How Frequently the Decisions Were Appealed

Two areas of particular interest on national forest land where fuels reduction activities can occur are in the wildland-urban interface and inventoried roadless areas. The wildland-urban interface areas are those areas where federal lands surround or are adjacent to human development and communities. In contrast, inventoried roadless areas are undeveloped areas with no or few roads. Fuels reduction activities occur more on wildland-urban interface areas than in inventoried roadless areas. Of the 818 decisions involving fuels reduction activities, 462 decisions had activities in the wildland-urban interface and 76 decisions had activities in inventoried roadless areas. Decisions with fuels reduction activities in the inventoried roadless areas are appealed more frequently.

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## Decisions with Fuels Reduction Activities in the Wildland-Urban Interface and Appeal Rates

The Forest Service broadly defines the wildland-urban interface as areas where humans and their development meet or intermix with wildland forest fuels. There are three categories of communities that meet its definition: (1) an interface community exists where structures directly abut wildland fuels; (2) an intermix community exists where structures are scattered throughout a wildland area; and (3) an occluded community exists, often within a city, where structures abut an island of wildland fuels, such as a park or open space.<sup>13</sup> Figure 10 shows an example of a community in the wildland-urban interface.

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**Figure 10: Wildland-Urban Interface Area**



Individual forest managers may or may not use the definition of wildland-urban interface that the Forest Service provides. According to the information provided by the national forests in response to our survey, most forest managers reported that they used the Forest Service's

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<sup>13</sup>Urban Wildland Interface Communities Within the Vicinity of Federal Lands That Are at High Risk From Wildfire, 66 Fed. Reg. 752-753 (2001).

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definition or they developed their own definition. Other managers reported that they either did not have a definition or did not know if they had a definition. The inconsistent application of these definitions by forest managers should be considered when using the information reported about whether fuels reduction activities were in the wildland-urban interface. An August 2003 GAO report highlighted the fact that agencies need to define which lands are part of the wildland-urban interface.<sup>14</sup> Without doing so, the Forest Service will be constrained in its ability to prioritize locations for fuels reduction treatments and to allocate funding accordingly. We recommended in the August report that the Forest Service develop a consistent, specific definition of the wildland-urban interface so that detailed, comparable nationwide data could be collected to identify the amount and location of lands in the wildland-urban interface. Development of a consistent definition will facilitate the prioritization of fuels reduction treatments.

Of the 818 decisions with fuels reduction activities, the national forest managers reported 462 decisions (57 percent) had fuels reduction activities in the wildland-urban interface. Of these 462 decisions, 169 were appealable—that is, they were decisions analyzed in conjunction with environmental assessments or environmental impact statements. Of the 169 appealable decisions, 89 were appealed—that is, 53 percent of appealable decisions and 19 percent of all decisions with fuels reduction activities in the wildland-urban interface.

The 462 decisions covered 1.5 million acres—that is, 31 percent of the total acreage (4.8 million) for all reported fuels reduction activities.

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<sup>14</sup>See U.S. General Accounting Office, *Wildland Fire Management: Additional Actions Required to Better Identify and Prioritize Lands Needing Fuels Reduction*, [GAO-03-805](#) (Washington, D.C.: Aug. 15, 2003).

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## Decisions with Fuels Reduction Activities in Inventoried Roadless Areas and Appeal Rates

Inventoried roadless areas, as the name implies, are undeveloped areas generally without roads, which the Forest Service has specifically defined.<sup>15</sup> The intent of the roadless designation is to conserve these natural areas by limiting road building and logging activities. Figure 11 shows an example of an inventoried roadless area on national forest land.

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**Figure 11: Inventoried Roadless Area**



In contrast to the wildland-urban interface areas, roadless areas have specific boundaries, which make it much easier for forest managers to report on decisions with treatments in these areas. Of the 818 decisions, the national forests reported 76 decisions—about 9 percent of all decisions—with fuels reduction activities in roadless areas. Of these 76

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<sup>15</sup>The definition of an inventoried roadless area was provided in rulemaking on January 12, 2001. Litigants are currently challenging the rule's validity in court. The rule defines inventoried roadless areas as those areas identified in a set of inventoried roadless area maps contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, Volume 2, dated November 2000.

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decisions, 41 were appealable and 26 were appealed—that is, 34 percent of all decisions with treatments in roadless areas and 63 percent of appealable decisions.

The 76 decisions covered 240,000 acres—about 5 percent of all acreage treated or planned for treatment in fiscal years 2001 and 2002.

Appendix X provides information on the number of decisions involving fuels reduction activities in the wildland-urban interface and inventoried roadless areas and the frequency of appeals for each Forest Service region.

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Forest Service for review and comment. The agency generally agreed with the information presented in the report. However, the agency did offer a few comments that it believed would help clarify some of this information. Specifically, the Forest Service believes that we should not have included information on a 1 million acre personal use firewood program at one forest because, in their opinion, doing so unnecessarily skews the data by increasing the amount of acreage with fuels reduction activities. We did not change the report to omit this information because, as the Forest Service agrees, it was reported and documented as a fuels reduction project by the agency. Nonetheless, to ensure clarity, we highlighted in the report the unique nature of the project, where appropriate.

The agency suggested that we highlight the fact that a single decision can be appealed multiple times, and that the Forest Service's workload increases accordingly. In its comments, the agency commented that we should provide additional information on that point in the body of the report to emphasize the impact of multiple appeals on the workload of the agency. We believe this point was already addressed in the body where we noted that there were 285 appeals on the 197 appealed decisions. In addition, we also provided a breakdown of the number of appeals per decision. Nonetheless, we did add language to the Results in Brief section of the report and the Highlights section, noting that decisions can be appealed multiple times.

The Forest Service also commented that because appeal rates vary widely throughout the nation, we should add language in the narrative regarding local perceptions of appeal rates and how they can differ from the national data. The agency noted that when local groups or individuals state that many projects are held up by appeals, they are more likely referring to their



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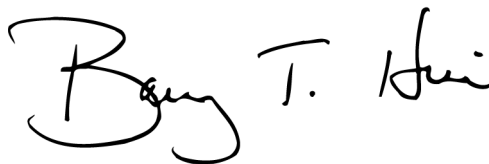
experience at the local level. We believe the information needed to discern regional differences was already presented in the report; therefore, we did not make changes to the report.

The Forest Service's written comments are presented in appendix XII.

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As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time, we will send copies to the Secretary of Agriculture, the Chief of the Forest Service, and other interested parties. We will make copies available to others upon request. This report will also be available on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-3841. Key contributors to this report were Cliff Fowler, Curtis Groves, Richard Johnson, Roy Judy, Nicole Shivers, Patrick Sigl, and Shana Wallace.

A handwritten signature in black ink that reads "Barry T. Hill". The signature is written in a cursive style with a large, stylized "B" and "H".

Barry T. Hill  
Director, Natural Resources  
and Environment

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*List of Requesters*

The Honorable Jeff Bingaman  
Ranking Minority Member, Committee on Energy  
and Natural Resources  
United States Senate

The Honorable Larry E. Craig  
Chairman, Subcommittee on Public Lands and Forests  
Committee on Energy and Natural Resources  
United States Senate

The Honorable Scott McInnis  
Chairman, Subcommittee on Forests and Forest Health  
Committee on Resources  
House of Representatives

The Honorable Gordon Smith  
United States Senate

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# Scope and Methodology

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The Forest Service does not maintain its own database on the number of decisions or appeals throughout the national forest system. Accordingly, to address each of the objectives, we had to develop a national database. To do this, we used a Web-based survey of all 155 national forests. The survey focused on all Forest Service decisions in fiscal years 2001 and 2002 with a forest fuels reduction component, including those that were categorically excluded from preparation of an environmental impact statement, that were issued in fiscal years 2001 and 2002.<sup>1</sup> The specific information we needed to satisfy our objectives was located at several organizational levels—headquarters, regional offices, individual forests, and district offices within each forest. For instance, information on the individual decisions, particularly the environmental impact statements and environmental assessments, was located at the forest-level. Information on categorical exclusions was primarily located only at the district offices. Our survey was addressed to forest supervisors. We asked forest supervisors to gather the necessary information from the other organizational units within the Forest Service, as needed, to complete the survey. We also asked each forest supervisor for a contact person at the forest who was familiar with the National Environmental Policy Act process requirements, since it guides land management decision-making and planning activities. This contact person served as our focal point at each forest and was responsible for providing us with survey responses and addressing the follow-up questions and documents that we requested.

We developed a data collection instrument to obtain the relevant information. Appendix XI contains a copy of the instrument used to gather these data. To help us understand the decision-making and appeals and litigation processes and to help us formulate the questions for our survey instrument, we met with Forest Service personnel at headquarters in Washington, D.C.; the region 5 office in Vallejo, California; the Stanislaus and Tahoe National Forests in California; and the George Washington and Jefferson National Forests in Virginia. Once we developed the questions, we pretested the instrument at the Kootenai National Forest in Montana, the Payette and Boise National Forests in Idaho, and the Monongahela National Forest in West Virginia.

We gave the forests 3 weeks to respond to the survey and granted extensions as needed. We obtained a 100 percent response rate from the

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<sup>1</sup>Our work focused only on national forests, we did not include national grasslands in our survey.

forest managers. We verified the accuracy of about 10 percent of the survey responses submitted. We used a random number to identify the first decision to be verified and then selected every 10th decision submitted by the forests. After selecting a decision, we obtained the supporting decision documents, National Environmental Policy Act documents, and appeals information from the forests and verified the information submitted for the randomly selected decisions. Using this approach, we verified 85 total decisions. Any discrepancies between the survey responses and our data verification were discussed and resolved with the responsible forest official. Through our data verification process, we determined that the data submitted were generally reliable.

In addition to our verification of the information supporting the 85 randomly selected decisions, we also reviewed the data to determine whether there were any aberrations in the submitted data (e.g., illogical dates or inconsistent responses). We contacted the appropriate forest officials and corrected many aberrations in the data. As a result of our review and verification, we identified 42 decisions that were eliminated from the information provided by the forest managers. These decisions were eliminated for a variety of reasons. For example, the decisions (1) were not issued within fiscal years 2001 and 2002 or (2) lacked clear documentation that the activities had a fuels reduction purpose.

There are some limitations to the data we gathered. As with any survey, the information obtained from the national forests was self-reported, and we were not able to independently ensure that all decisions were reported. In particular, we had no way to determine if forests were underreporting their activities. To get some indication of whether this might be occurring, we contacted eight environmental groups to review the decisions submitted by selected forests in order to determine if there was any indication that the forests were underreporting decisions.<sup>2</sup> These groups did not identify any instances of underreporting.

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<sup>2</sup>We selected environmental groups that had some appeal activity in a given forest. The eight environmental organizations and the corresponding forests include: Alliance for Wild Rockies (St. Joe, Flat Head, and Lolo National Forests); Biodiversity Association (Black Hills and Routt National Forests); Center for Biological Diversity (Apache and Kaibab National Forests); Utah Environmental Congress (Dixie, Manti-La Sal, and Cache National Forests); Forest Conversation Council (Lassen, Plumas, and Tahoe National Forests); Oregon National Resource Council (Fremont, Umatilla, and Wallowa National Forests); Texas Committee on Natural Resources (Angelina and Sabine National Forests); and Heartwood (Huron and Hiawatha National Forests).

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**Appendix I**  
**Scope and Methodology**

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We conducted our work from September 2002 through September 2003 in accordance with generally accepted government auditing standards.

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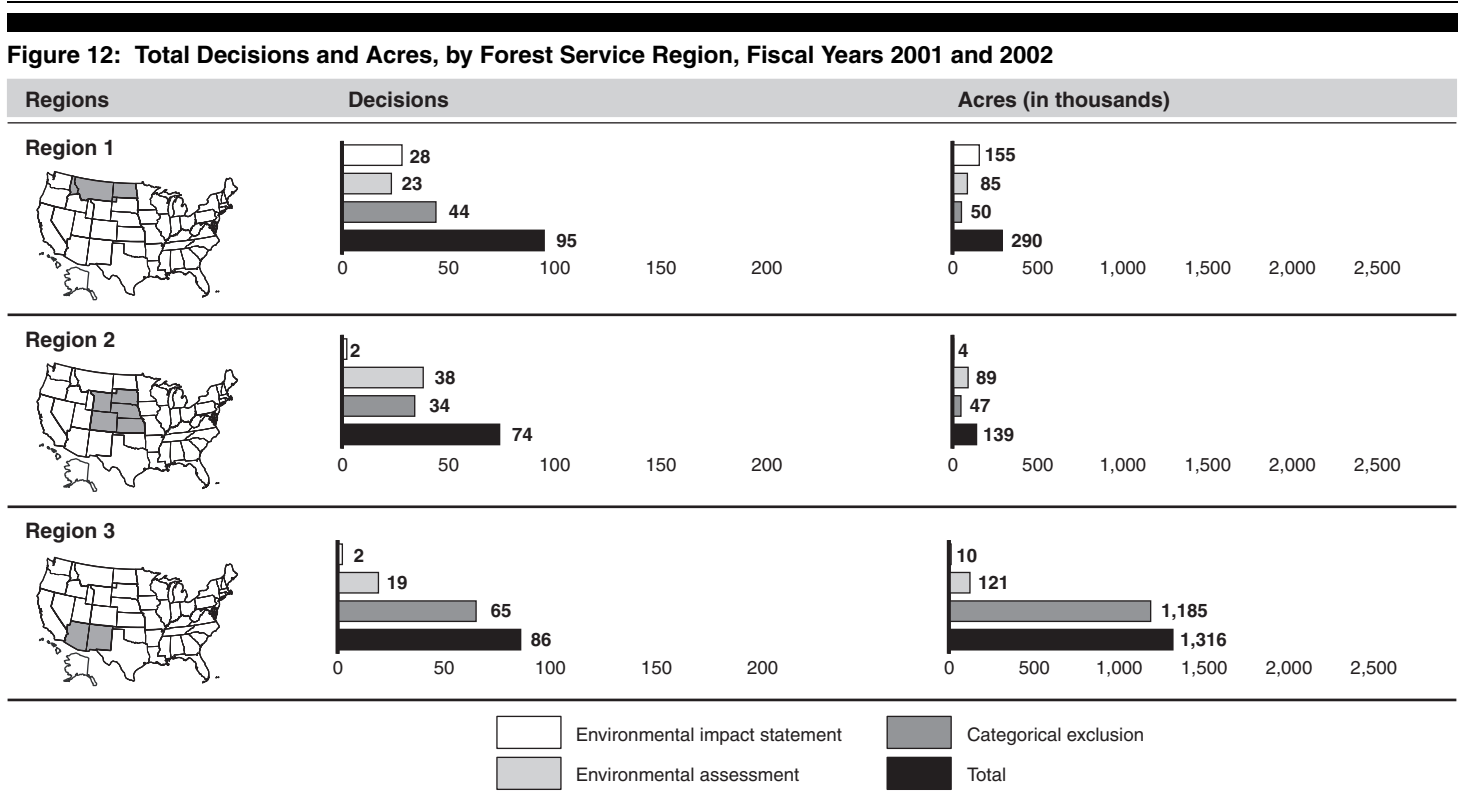
**Appendix I**  
**Scope and Methodology**

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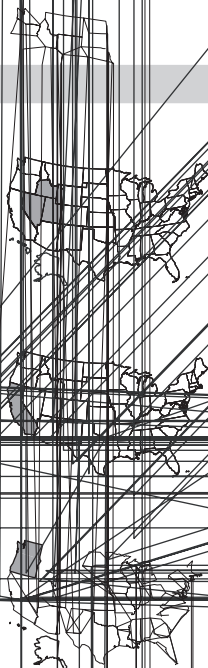
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# Decisions and Acres, by Forest Service Region

The Forest Service consists of nine regions. Figure 12 highlights the areas covered by each region. The Southern Region (region 8) had the largest number of decisions with fuels reduction activities (180 decisions) with the largest planned acreage—2.1 million acres. The Alaska Region (region 10) listed the least number of decisions with fuels activities (2) and the least amount of acreage—1,408 acres. Figure 12 provides a summary of the number of decisions and acres planned in each Forest Service region.



**Appendix II  
Decisions and Acres, by Forest Service  
Region**



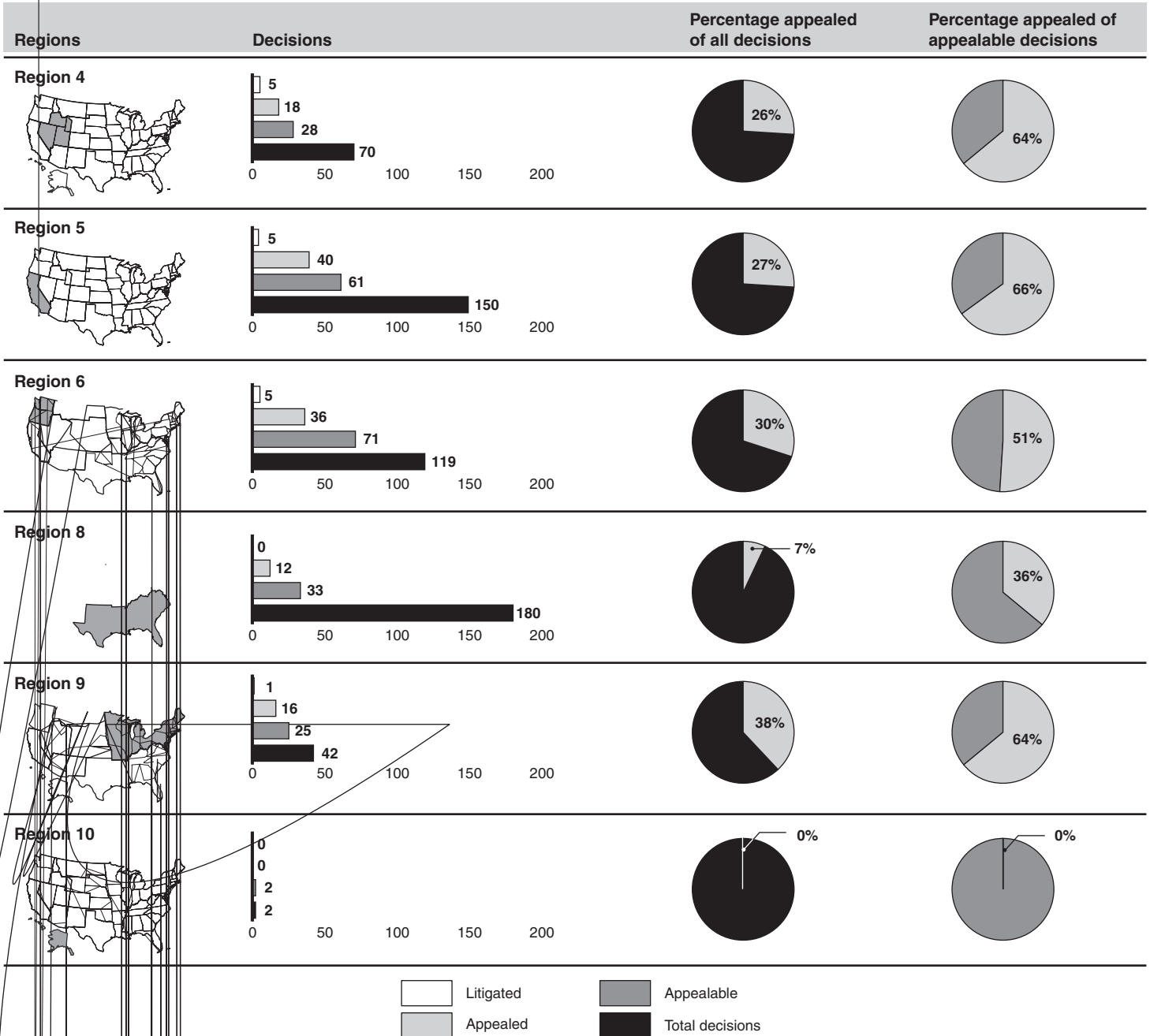


# Appeals and Litigation Levels Reduction Act Region

13 summarizes the appeals and litigation in the region. The Northern Region (region 1) had 48 percent of all decisions and appealable decisions appealed. The Southern Region (region 8), which has the highest number of litigation cases, had 52 percent of appealable decisions appealed. The Southern Region (region 8), which has the highest number of litigation cases, had 52 percent of appealable decisions appealed. The Southern Region (region 8), which has the highest number of litigation cases, had 52 percent of appealable decisions appealed.

Service 2002

**Appendix III**  
**Forest Service Appeals and Litigation of**  
**Decisions with Fuels Reduction Activities, by**  
**Forest Service Region**

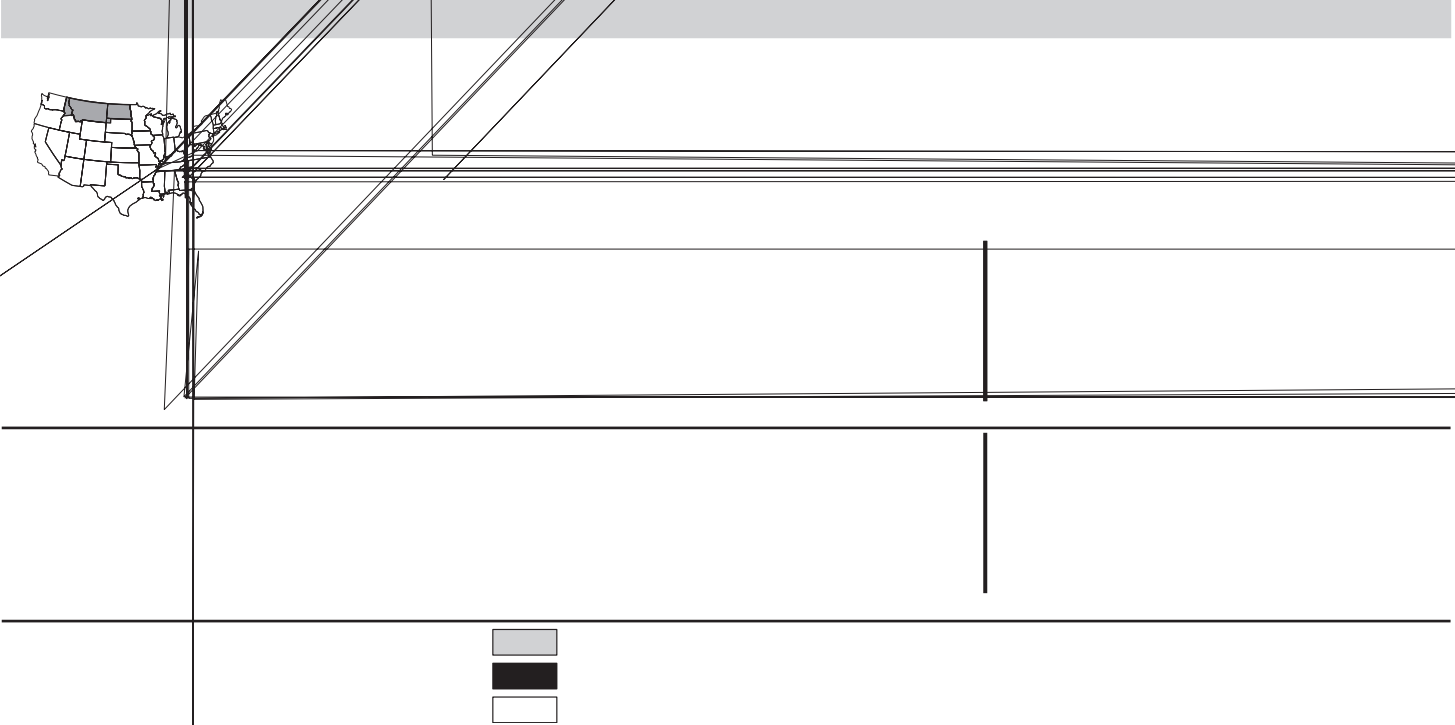


Source: GAO data and analysis.

# Appeal Outcomes for Decisions with Fuels Reduction Activities, by Forest Service Region

Figure 14 summarizes the appeal outcomes for decisions with fuels reduction activities by Forest Service region. All of the decisions in the Southern Region (region 8) were permitted to proceed without changes. The Eastern Region (region 9) had the lowest percentage of decisions that were allowed to proceed without changes—50 percent. The Western Region (region 3) had the highest percentage of decisions that were not allowed to proceed due to appeals—38 percent.

**Figure 14: Outcomes of Appeals of Decisions with Fuels Reduction Activities, by Forest Service Region, Fiscal Years 2001 and 2002**



**Appendix IV  
Appeal Outcomes for Decisions with  
Reduction Activities, by Forest Service  
Region**

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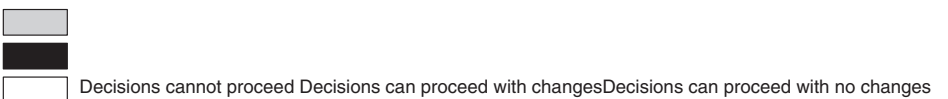
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# Litigation Outcomes for Decisions with Fuels Reduction Activities, by Forest Service Region

Table 9 summarizes the number of litigated decisions and the outcomes for each Forest Service region. The Northern Region (region 1) had 8 litigated decisions and 3 were settled or continuing. Of those decided, 3 were in favor of plaintiffs and 2 were in favor of the Forest Service. The Pacific Northwest Region (region 6) had all 5 of its litigated decisions resolved—4 in favor of plaintiffs and 1 in favor of the Forest Service. Three regions—Southwestern (region 3), Southern (region 8), and Alaska (region 10)—had no decisions litigated.

**Table 9: Litigation Outcomes, by Forest Service Region, Fiscal Years 2001 and 2002**

Region	Number of litigated decisions	Outcomes
Northern - Region 1	8	2 were continuing, 1 was settled, 3 were decided in favor the plaintiffs, 2 were decided in favor of the Forest Service
Rocky Mountain - Region 2	1	Settled
Southwestern - Region 3	None	N/A
Intermountain - Region 4	5	1 was continuing, 2 were settled, 1 was decided in favor of the plaintiffs, 1 was decided in favor of the Forest Service
Pacific Southwest - Region 5	5	2 were continuing, 1 was settled, 1 was decided in favor of the plaintiffs, 1 was decided in favor of the Forest Service
Pacific Northwest - Region 6	5	4 were decided in favor of the plaintiffs, 1 was decided in favor of the Forest Service
Southern - Region 8	None	N/A
Eastern - Region 9	1	Continuing
Alaska - Region 10	None	N/A

Source: GAO data and analysis.

Note: Decisions may be subject to appeal to the applicable federal court of appeals.

Table 10 provides a list of appellants by Forest Service region. Interest groups were most active in the Forest Service's Northern (region 1), Pacific Southwest (region 5), and Pacific Northwest (region 6) Regions. Private individuals were most active in the Rocky Mountain (region 2) and Pacific Southwest (region 5) Regions. Interest groups were the least active in the Alaska (region 10), Southern (region 8), and the Southwestern (region 3) Regions.

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**Appendix VI**  
**List of Appellants and Litigants for Each**  
**Forest Service Region**

*(Continued From Previous Page)*

<b>Interest groups</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>R-5</b>	<b>R-6</b>	<b>R-8</b>	<b>R-9</b>	<b>R-10</b>	<b>Total</b>
26. Friends of the Bitterroot	1									1
27. Friends of the Bow		1								1
28. Friends of the Clearwater	6									6
29. Friends of the Pond	1									1
30. Heartwood Forestwatch							2	5		7
31. Hells Canyon Preservation Council						5				5
32. High Country Citizens' Alliance		2								2
33. Idaho Conservation League	3									3
34. Idaho Sporting Congress	1			7		1				9
35. Intermountain Forest Association-RMD	1	2								3
36. John Muir Project of the Earth Island Institute	1				12					13
37. Kerncrest Audubon Society					2					2
38. Kettle Range Conservation Group						4				4
39. Klamath Forest Alliance					4					4
40. Klamath Siskiyou Wildlands Center					2					2
41. Kootenai Environmental Alliance	7									7
42. Land and Water Fund of the Rockies		2								2
43. Lands Council	23					6				29
44. Lassen Forest Preservation Group					3					3
45. League of Wilderness Defenders - Blue Mountain Biodiversity Project						7				7
46. LSK2 Incorporated				1						1
47. Minnesota Forest Industries, Inc.								5		5
48. Montana 4x4 Association	1									1
49. Montana Ecosystem Defense Council	1									1
50. Montanans for Multiple Use	1									1
51. Montanans for Property Rights	1									1
52. National Audobon Society					1					1
53. National Forest Protection Alliance	8	1		3	10	5				27
54. Native Ecosystems Council	6	3		1						10
55. Native Forest Network	1									1
56. Northwest Environmental Defense Center						4				4
57. Northwoods Wilderness Recovery								4		4
58. Oregon Natural Resources Council						24				24
59. Pacific Rivers Council	1									1

**Appendix VI**  
**List of Appellants and Litigants for Each**  
**Forest Service Region**

*(Continued From Previous Page)*

<b>Interest groups</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>R-5</b>	<b>R-6</b>	<b>R-8</b>	<b>R-9</b>	<b>R-10</b>	<b>Total</b>
60. Payette Forest Watch				4						4
61. Plumas Forest Project					2					2
62. Potlatch Corporation								3		3
63. Rajala Companies								4		4
64. Ruffed Grouse Society								3		3
65. Santa Fe Forest Watch			2							2
66. Seagull-Sag Property Owners Association								1		1
67. Sequoia Forest Alliance					2					2
68. Sierra Club	8	3	1		4	5		1		22
69. Sky Island Alliance			1							1
70. Southern Appalachian Biodiversity Project							2			2
71. Southern Utah Wilderness Alliance				1						1
72. Southwest Forest Alliance			1							1
73. Superior Wilderness Action Network								3		3
74. Texas Committee on Natural Resources							2			2
75. Tule River Conservancy					2					2
76. Upper Arkansas & South Platte Project		2								2
77. Utah Environmental Congress				7						7
78. Vallecitos Stables			1							1
79. Washington Wilderness Coalition						1				1
80. Western Watersheds Project				4						4
81. White Mountain Conservation League			1							1
82. Wild Watershed			3							3
83. Wilderness Society	1	2								3
84. Wildlands Center for Preventing Roads		2								2
85. Wildlaw							1	1		2
<b>Total for interest group appellants, by region</b>	<b>163</b>	<b>47</b>	<b>18</b>	<b>43</b>	<b>90</b>	<b>77</b>	<b>8</b>	<b>36</b>	<b>0</b>	<b>482</b>
<b>Total private individual appellants, by region - 53 different private individuals</b>	<b>10</b>	<b>17</b>	<b>0</b>	<b>8</b>	<b>17</b>	<b>7</b>	<b>4</b>	<b>14</b>	<b>0</b>	<b>77</b>
<b>Total for all identified appellants</b>	<b>173</b>	<b>64</b>	<b>18</b>	<b>51</b>	<b>107</b>	<b>84</b>	<b>12</b>	<b>50</b>	<b>0</b>	<b>559</b>

Source: GAO data and analysis.

Note: A decision can be appealed multiple times and multiple appellants can be parties to an appeal. This table provides a list of the appellants who appeared in the 285 appeals of the 197 appealed decisions in fiscal years 2001 and 2002.



**Appendix VI**  
**List of Appellants and Litigants for Each**  
**Forest Service Region**

## Litigants, by Region

Table 11 provides a list of litigants by Forest Service region. Interest groups were most active in the Forest Service's Northern (region 1), Intermountain (region 4), Pacific Southwest (region 5), and Pacific Northwest (region 6) Regions. The Southwestern (region 3), Southern (region 8), and Alaska (region 10) Regions did not have any decisions litigated.

**Table 11: Interest Groups and Private Individuals Appearing as Litigants, Fiscal Years 2001 and 2002**

Interest groups	R-1	R-2	R-3	R-4	R-5	R-6	R-8	R-9	R-10	Total
1. Alliance for the Wild Rockies	1									1
2. Aspen Wilderness Workshop		1								1
3. Blue Mountain Biodiversity Project						1				1
4. California Wilderness Coalition					1					1
5. Center for Biological Diversity	1				1					2
6. Center for Native Ecosystems		1								1
7. Colorado Wild		1								1
8. Ecology Center	6			3	1					10
9. Environmental Protection Information Center					2					2
10. Forest Conservation Council					2					2
11. Friends of the Bitterroots	1									1
12. Heartwood								1		1
13. Hell's Canyon Preservation Council						4				4
14. Idaho Sporting Congress				2	1					3
15. John Muir Project					1					1
16. Klamath Forest Alliance					2					2
17. Klamath Siskiyou Wildlands Center					2					2
18. Kootenai Environmental Alliance					1					1
19. Lands Council	2				1					3
20. Native Ecosystems Council	3			1						4
21. Neighbors of Cuddy Mountain				1						1
22. Northwest Environmental Defense Center						1				1
23. Oregon Natural Resources Council						4				4
24. Plumas Forest Project					1					1
25. Sierra Club	3				1	1				5
26. Utah Environmental Congress				2						2
<b>Regional total for interest groups</b>	<b>17</b>	<b>3</b>	<b>0</b>	<b>9</b>	<b>17</b>	<b>11</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>58</b>

**Appendix VI**  
**List of Appellants and Litigants for Each**  
**Forest Service Region**

*(Continued From Previous Page)*

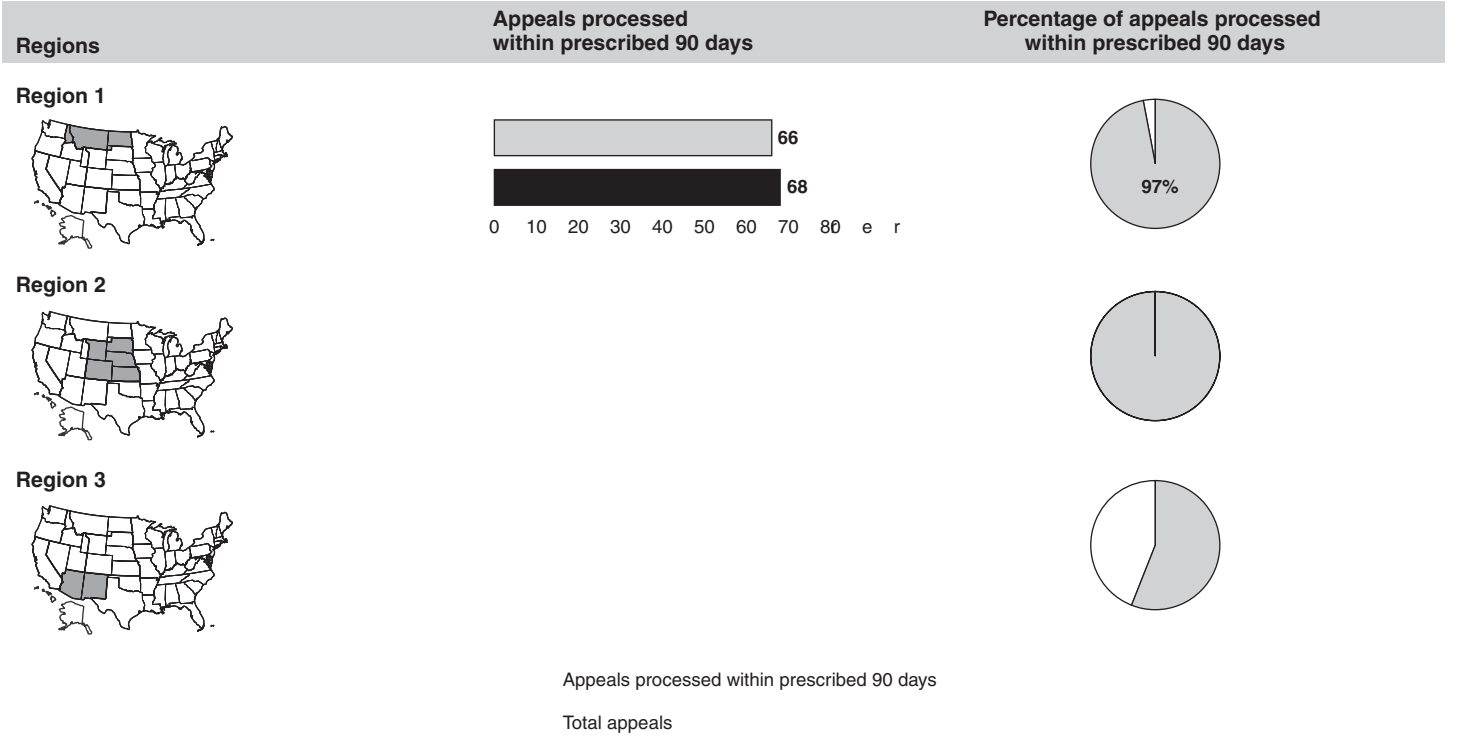
Interest groups	R-1	R-2	R-3	R-4	R-5	R-6	R-8	R-9	R-10	Total
Regional total for private individuals – 1 private individual					1					1
<b>Total for all litigants</b>	<b>17</b>	<b>3</b>	<b>0</b>	<b>9</b>	<b>18</b>	<b>11</b>	<b>0</b>	<b>1</b>	<b>0</b>	<b>59</b>

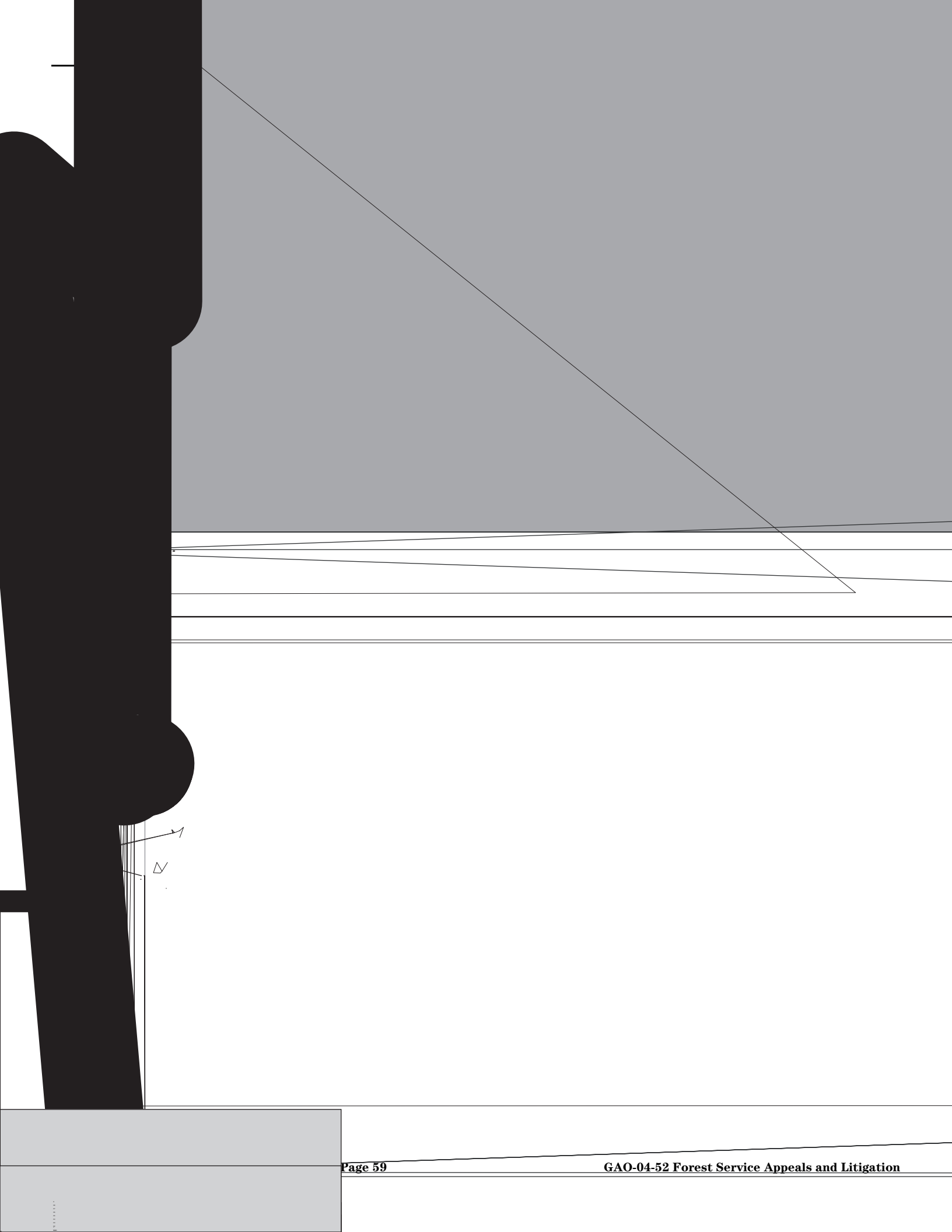
Source: GAO data and analysis.

# Appeal Processing Time Frames for Decisions with Fuels Reduction Activities, by Region

Figure 15 summarizes the processing time frames for appeals of decisions for each Forest Service region. The Northern Region (region 2) had the highest rate of appeals processed within the 90-day prescribed time frame at a rate of 100 percent. The Pacific Northwest Region (region 6) had a rate below 50 percent by processing 17 of 49 appeals (about 35 percent) within the 90-day prescribed time frame.

Figure 15: Appeal Processing Time Frames for Decisions with Fuels Reduction Activities, by Region

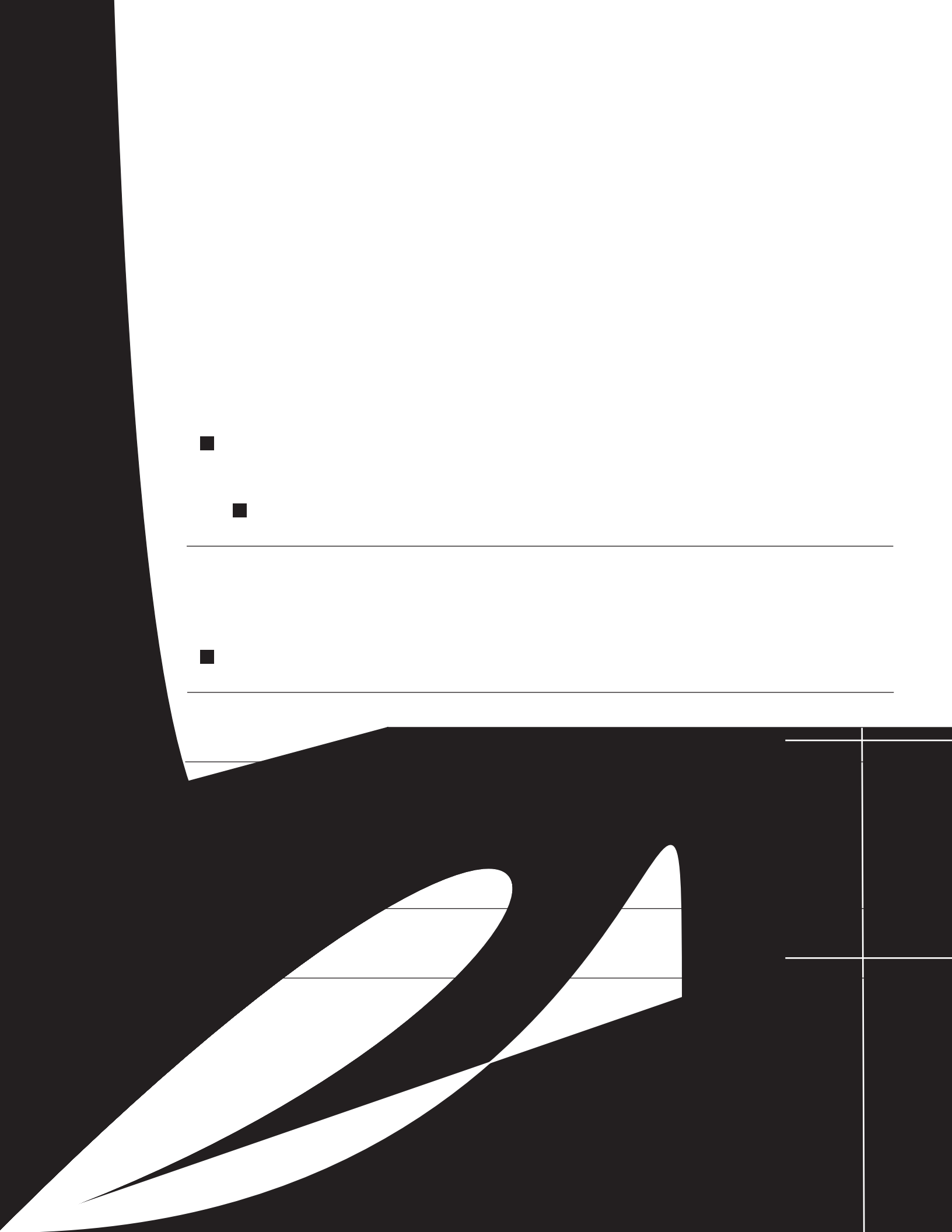




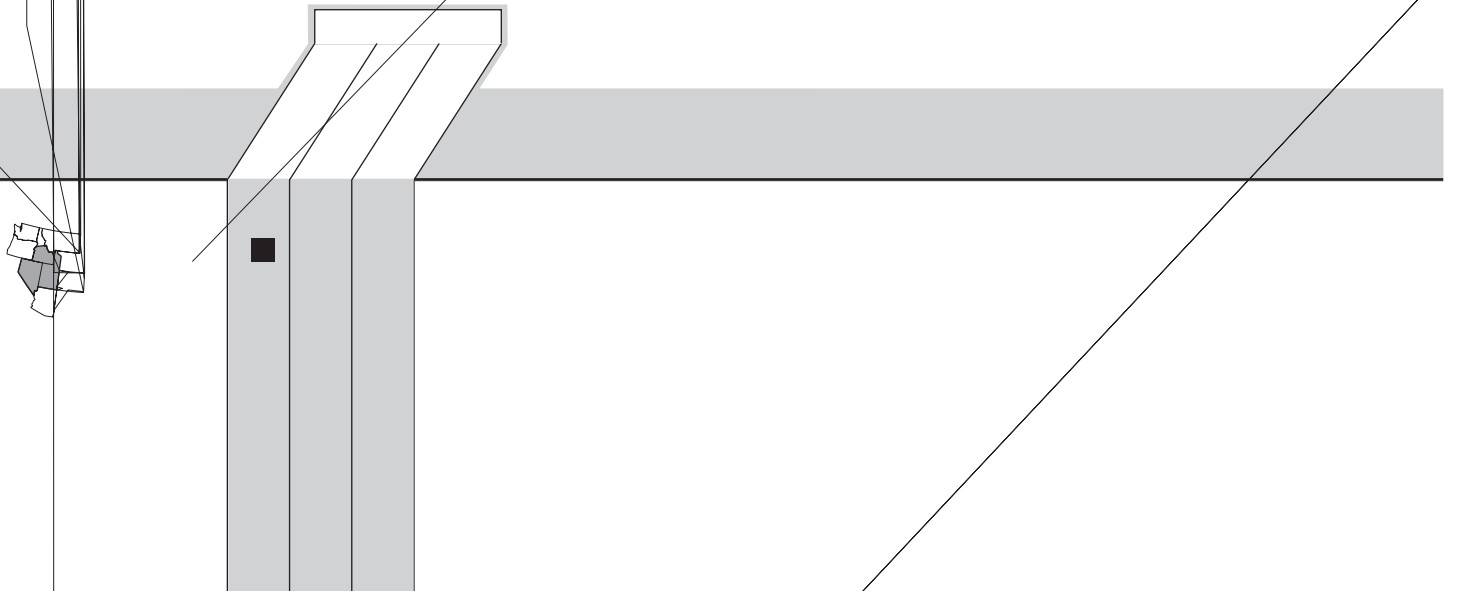
# Fuels Reduction Methods and Appeals, by Forest Service Region

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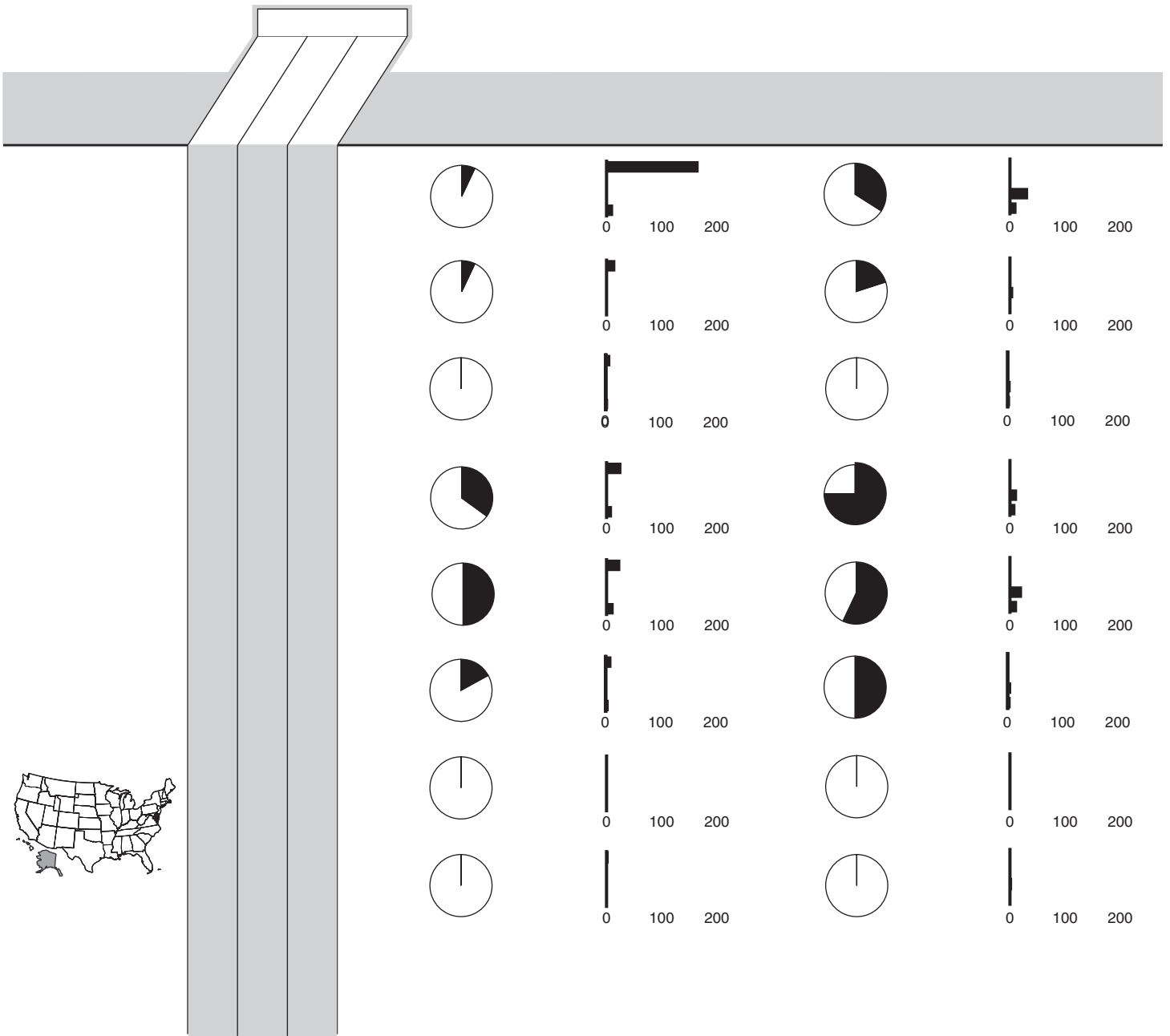
Figure 16 summarizes the fuels reduction methods used and how frequently decisions with those methods were appealed by Forest Service region. The Southern Region (region 8) had the most decisions (166) with prescribed burn activities. The Pacific Southwest Region (region 5) had the most decisions (126) with mechanical treatments. The Northern Region (region 1) experienced the highest appeal rates for decisions with prescribed burning and mechanical treatment activities—95 percent of appealable decisions and 55 percent of all decisions for prescribed burning; and 93 percent of appealable decisions and 63 percent of all decisions for mechanical treatment.



**Appendix VIII**  
**Fuels Reduction Methods and Appeals, by**  
**Forest Service Region**



**Appendix VIII**  
**Fuels Reduction Methods and Appeals, by**  
**Forest Service Region**





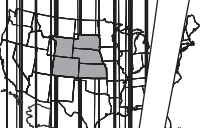
# Types of Contracts Used in Decisions with Fuels Reduction Activities and How Frequently They Were Appealed, by Region

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Figure 17 shows a summary of the types of contracts used for implementing fuels reduction activities and how frequently decisions involving the contract types were appealed by region. The Pacific Northwest Region (region 6) had the most decisions (75) that included service contracts. The Pacific Southwest Region (region 5) issued the most decisions (65) with timber sale contracts. The Northern Region (region 1) had the most decisions (14) with stewardship contracts. The Intermountain (region 4), Pacific Southwest (region 5), and Eastern (region 9) Regions had all of their decisions with stewardship contracts appealed—totaling 4 decisions for all three regions.

Figure 17: Types of Contracts Used, by State

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**Appendix IX**  
**Types of Contracts Used in Decisions with**  
**Fuels Reduction Activities and How**  
**Frequently They Were Appealed, by Region**

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# Decisions in Wildland-Urban Interface and Inventoried Roadless Areas

Figure 18 summarizes the number of decisions with fuels reduction activities in the wildland-urban interface (WUI) and frequency of appeals by region. The Southern Region (region 8) had the most decisions (125) in the WUI. The Northern Region (region 1) had the most decisions (25) that were appealed. The highest appeal rate for all decisions (50 percent) was the Eastern Region (region 9). The highest rate for appealable decisions (88 percent) was the Northern Region (region 1).

**Figure 18** Decisions with Fuels Reduction Activities in the Wildland-Urban Interface and Frequency of Appeals, by Region, Fiscal Years 2001 and 2002



**Appendix X**  
**Decisions in Wildland**  
**Inventoried Roadless**

**Appendix X**  
**Decisions in Wildland-Urban Interface and**  
**Inventoried Roadless Areas**

Figure 19 summarizes the number of decisions with fuels reduction activities in inventoried roadless areas (IRA) and frequency of appeals by region. The Northern Region (region 1) had the most decisions (21) in IRAs. The Intermountain Region (region 4) had the most appealed decisions (8). The highest appeal rate for all decisions (50 percent) was in the Eastern Region (region 9). The highest appeal rate for appealable decisions (100 percent) was in the Eastern Region (region 9).

**Figure 19: Decisions with Fuels Reduction Activities in Inventoried Roadless Areas and Frequency of Appeals, by Region, Fiscal Years 2001 and 2002**





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# Survey Questions to National Forests

Survey of National Forests Decisions Signed in FY2001 and FY2002 with Fuels Reduction... Page 1 of 22

## Survey of National Forests Decisions Signed in FY2001 and FY2002 with Fuels Reduction Activities

### U.S. General Accounting Office

Welcome to the U.S. General Accounting Office's Survey of National Forest Service Decisions Containing Fuels Reduction Activities. GAO has been asked to determine the total number and certain characteristics of NEPA (National Environmental Policy Act) decisions that include fuels reduction activities identified in decision memos (for categorical exclusions), decision notices (for environmental assessments), and records of decisions (for environmental impact statements). The survey scope includes all decisions signed during fiscal years 2001 and 2002 (October 1, 2000 through September 30, 2002) with at least one fuels reduction activity, including the treatment of activity fuels.

GAO is asking you as a NEPA coordinator or someone identified to us as experienced with the NEPA process for your National Forest to complete this survey. Please begin by gathering all NEPA documents and decision documents associated with decisions signed during fiscal years 2001 and 2002 for your forest. You may have to contact representatives in your district office to gather all decision and NEPA documents with fuels reduction activities. ***Please do not include information about decisions that have no fuels reduction activities at all.***

Once you have gathered all necessary documents, it may take as much as 30 minutes to complete the questions for a decision memo and as much as 90 minutes for each decision notice and record of decision, depending on the complexity of the decisions.

### Instructions - Navigating, Exiting, and Printing the Survey

**Please do not use the "Enter" key on your keyboard to navigate through the survey.**

**Please do not exit the survey by clicking on the "x" button at the upper right hand corner of the screen. This will cancel your data entry and all the survey information you entered will be lost.**

**To read to the bottom of a section:** Use the scroll bar on the right hand side of the screen.

**To move from section to section:** To move from section to section: Use the "previous section" or "next section" buttons at the bottom of each screen or the "Sections" menu bar on the left hand side of the screen. **To exit:** Click on the "Exit" button at the bottom of the screen. **To exit:** Until the website closing date, you may re-open and work on your survey. When you re-open the survey, it will restart at the last response you entered.

1/28/2003

Appendix XI  
Survey Questions to National Forests

Survey of National Forests Decisions Signed in FY2001 and FY2002 with Fuels Reducti... Page 2 of 22

To change your answers: To "uncheck" a checked box, click on the box again (this will "uncheck" it), then check the box(es) you wish to check.  
Note: You can change your answers, even after exiting, by re-opening the survey.

To skip non applicable questions: If the response you wish to choose has a highlighted (**GO TO QUESTION #.**) next to it, instead of clicking on the box or circle, you should click on the highlighted (**GO TO QUESTION #.**). When you do that the circle or box to the left of the response will then be automatically filled in and you will be taken to the next applicable part of the survey.

To answer open-ended questions: Click anywhere inside the box and

This block contains a large rectangular area with multiple horizontal lines, intended for text entry in response to open-ended questions. The lines are evenly spaced and cover most of the width of the page.

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Appendix XI  
Survey Questions to National Forests

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Survey of National Forests Decisions Signed in FY2001 and FY2002 with Fuels Reducti... Page 3 of 22

this survey, please use the following guidelines. (This would be a good section to print and keep near you each time you log on.)

A **Decision**, composed of one or more "activities," is intended to guide action on National Forest system land and is conveyed through "NEPA documents" and/or "decision documents." Most decisions will have a name that appears on the decision document, except for some categorical exclusions (CEs) without a decision memo. The decision name for those CEs without a decision memo should be the name used by your forest to refer to this action.

**NEPA documents** include environmental impact statements (EISs), environmental assessments (EAs) and findings of no significant impact (FONSIIs).

**Decision documents** include corresponding records of decisions, decision notices and decision memorandums in the case of categorical exclusions. Please respond based only on decision specific information, not programmatic information from your forest's Forest Plan.

**Activities** or an **Activity** are discrete actions or tasks that are intended to accomplish decision objectives. Examples of activities include stream improvement, pre-commercial thin, commercial thin, slash piling and burning harvest units, road improvement, timber harvest, construct road, underburn outside harvest units, change travel map. We realize that many distinct activities may be packaged within an individual decision. The same activity performed in different areas is considered one activity. For instance, a decision containing a prescribed burning activity on 5 different 10-acre parcels of land is considered one activity affecting 50 acres. In addition, a timber harvest on 10 units is also one activity affecting the total acreage for the 10 units.

The **Purpose** of an activity can be identified in the Purpose and Need section of the NEPA document or decision document, as well as in other parts of these documents. Please indicate only the purposes for which you justified the activity or activities.

**Wildland-Urban Interface** We recognize that the forests define this term in a variety of ways. One definition is contained in Federal Register Notice, Volume 66, page 751 dated January 4, 2001, which defines the wildland-urban interface community as those areas where humans and their development meet or intermix with wildland fuel. The notice lists three categories that meet this description. Category 1- An Interface Community exists where structures directly abut wildland fuels. Category 2- An Intermix Community exists where structures are scattered throughout a wildland area. Category 3- An Occluded Community generally exists in a situation, often within a city, where structures abut an island of wildland fuels, e.g. park or open space.

**Inventoried Roadless Areas** are defined in 36 C.F.R. Part 294 Subpart B as " areas identified in a set of inventoried roadless area maps, contained in Forest Service Roadless Area Conservation, Final Environmental Impact Statement, volume 2, dated November 2000."

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### General Information

This questionnaire should be completed for each decision signed in fiscal years 2001 and 2002 with at least one fuels reduction activity. For instance, if your forest has 3 decisions with at least one fuels reduction activity, you should complete 3 questionnaires.

To review our definition of a decision, [click here](#).

Have you already completed this section (General Information), from another decision with fuels reduction activities survey as part of this study?

If you have not already done so, please enter the following information in the event we need to clarify a response.

*Click one button.*

1. ☐ Yes, already completed this section ([GO TO QUESTION 1](#))
2. ☐ No, did not complete this section (*If no, continue.*)
3. ☒ No answer

Name:

Title:

E-mail address:

Telephone number:

Region:

---

### Decision Information

Please list the name of your forest:

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Survey Questions to National Forests

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Does your forest have one or more decisions with fuels reduction activities signed in fiscal years 2001 or 2002 (October 1, 2000 through September 30, 2002)?

To review our definition of a decision, [click here](#).

Click one button.

1. ☐ Yes
2. ☐ No ([GO TO QUESTION 56.](#))
3. ☒ No Answer

1. List the name, as shown on the decision document, of the NEPA decision that includes at least one fuels reduction activity and that was signed in fiscal years 2001 and 2002 that you are describing in this questionnaire:

**Decision Information (cont.)**

2. What type of decision was #1.?

Click one button.

1. ☐ Categorical exclusion/Decision memo - *Continue with next question*
2. ☐ Categorical exclusion/No decision memo - *Continue with next question*
3. ☐ EA/Decision notice ([GO TO QUESTION 4.](#))
4. ☐ EIS/Record of decision ([GO TO QUESTION 4.](#))
5. ☒ No Answer

3. What was the date the decision memo for #1. was signed? (Note: Decision date must be between 10/1/2000 and 9/30/2002).

(ENTER DATE USING YYYY-MM-DD FORMAT)

[SKIP TO QUESTION 5.](#)

4. What was the date the legal notice for the decision notice/record of decision was published in your forest's paper of record? (Note: Decision date must be between 10/1/2000 and 9/30/2002).

(ENTER DATE USING YYYY-MM-DD FORMAT)

5. Is the #1. a re-issuance of a **previous** decision that was appealed and reversed in whole or reversed in part?

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Click one button.

1. ☐ Yes - Continue with next question
2. ☐ No (GO TO QUESTION 6.)
3. ☒ No Answer

5.a. If yes, what was the name of original NEPA decision:

5.b. If yes, what was the date the original NEPA decision was issued?  
(Note: Decision date may **not** necessarily be between 10/1/2000 and 9/30/2002):

(ENTER DATE USING YYYY-MM-DD FORMAT)

### Decision Appeal Information

6. We understand you might not have appeal information available at your forest. If not, you will need to contact your regional office to gather the information for this section.

Was the #1. appealed?

Click one button.

1. ☐ Yes - Continue with next question
2. ☐ No (GO TO QUESTION 37.)
3. ☐ Not appealable (GO TO QUESTION 37.)
4. ☒ No Answer

Please complete the following set of questions for each appeal of #1..

### Appeal 1

7. Name(s) of the appellant(s) and, if any, the organization(s) represented:

8. Date the appeal was postmarked or faxed:  
(ENTER DATE USING YYYY-MM-DD FORMAT)

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Survey Questions to National Forests

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9. Date of the Appeal Deciding Officer's decision: (Note: This date should not precede the date from Question 8.)

(ENTER DATE USING YYYY-MM-DD FORMAT)

10. For this appeal, was the Appeal Deciding Officer's decision letter issued within 90 days of #4.? (Or 90 days plus the allowance if the deadline falls on a federal holiday or weekend?)

Click one button.

- 1. ☐ Yes (GO TO QUESTION 12.)
- 2. ☐ No - Continue with next question
- 3. ☒ No Answer

11. Please explain why a decision was not rendered within the 90-day regulatory period. (For example, workload may have prevented a deciding officer from issuing a decision letter within 90 days of the decision date listed in question 4 above):

12. Did the Forest Service Chief use his emergency mechanism under the appeal regulations (specifically 36 C.F.R. Part 215.10(d))?

Click one button.

- 1. ☐ Yes
- 2. ☐ No
- 3. ☒ No Answer

13. Was the appeal dismissed without review?

Click one button.

- 1. ☐ Yes (GO TO QUESTION 16.)
- 2. ☐ No - Continue with next question
- 3. ☒ No Answer

14. If not dismissed, what was the outcome of the appeal?

Click one button.

- 1. ☐ Affirmed (GO TO QUESTION 16.)
- 2. ☐ Affirmed with instructions (GO TO QUESTION 16.)
- 3. ☐ Reversed in whole (GO TO QUESTION 15.)

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4. ☐ Reversed in part (GO TO QUESTION 15.)
5. ☐ Resolved informally, decision withdrawn by Forest Service (GO TO QUESTION 16.)
6. ☐ Resolved informally, appeal withdrawn by appellant (GO TO QUESTION 16.)
7. ☐ Other, please specify - *Continue with next question*
8. ☒ No Answer

14.a. If you answered "Other" in question 14 above, please enter your response below.



SKIP TO QUESTION 16.

15. If the #1. was appealed and either reversed in whole or reversed in part, what happened to the decision?

*Click one button.*

1. ☒ The decision was reissued under the same name (GO TO QUESTION 16.)

2. ☐ The decision was reissued under a different name (GO TO QUESTION 16.)

QUESTION 16.)

3. ☒ The decision is under review by the forest, and has not yet been re-issued (GO TO QUESTION 16.)
4. ☒ Will not issue a new decision (GO TO QUESTION 16.)
5. ☒ Other, please specify - *Continue with next question*
6. ☒ No Answer

15.a. If you answered "Other" in question 15 above, please enter your response below.



16. Was there another appeal of the #1.?



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Survey Questions to National Forests

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3. ☒ No Answer

**Appeal 2**

17. Name(s) of the appellant(s) and, if any, the organization(s) represented:



18. Date the appeal was postmarked or faxed:

(ENTER DATE USING YYYY-MM-DD FORMAT)



19. Date of the Appeal Deciding Officer's decision: (Note: This date should not precede the date from Question 18.)

(ENTER DATE USING YYYY-MM-DD FORMAT)



20. For this appeal, was the Appeal Deciding Officer's decision letter issued within 90 days of #4.? (Or 90 days plus the allowance if the deadline falls on a federal holiday or weekend?)

Click one button.

- 1. ☐ Yes (GO TO QUESTION 22.)
- 2. ☐ No - Continue with next question
- 3. ☒ No Answer

21. Please explain why a decision was not rendered within the 90-day regulatory period. (For example, workload may have prevented a deciding officer from issuing a decision letter within 90 days of the decision date listed in question 4 above):



22. Did the Forest Service Chief use his emergency mechanism under the appeal regulations (specifically 36 C.F.R. Part 215.10(d))?

Click one button.

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1. ☐ Yes
2. ☐ No
3. ☒ No Answer

23. Was the appeal dismissed without review?

*Click one button.*

1. ☐ Yes ([GO TO QUESTION 26.](#))
2. ☐ No - *Continue with next question*
3. ☒ No Answer

24. If not dismissed, what was the outcome of the appeal?

*Click one button.*

1. ☐ Affirmed ([GO TO QUESTION 26.](#))
2. ☐ Affirmed with instructions ([GO TO QUESTION 26.](#))
3. ☐ Reversed in whole ([GO TO QUESTION 25.](#))
4. ☐ Reversed in part ([GO TO QUESTION 25.](#))
5. ☐ Resolved informally, decision withdrawn by Forest Service ([GO TO QUESTION 26.](#))
6. ☐ Resolved informally, appeal withdrawn by appellant ([GO TO QUESTION 26.](#))
7. ☐ Other, please specify - *Continue with next question*
8. ☒ No Answer

24.a. If you answered "Other" in question 24 above, please enter your response below.

[SKIP TO QUESTION 26.](#)

25. If the #1. was appealed and either reversed in whole or reversed in part, what happened to the decision?

*Click one button.*

1. ☒ The decision was reissued under the same name ([GO TO QUESTION 26.](#))
2. ☒ The decision was reissued under a different name ([GO TO QUESTION 26.](#))
3. ☒ The decision is under review by the forest, and has not yet been re-issued ([GO TO QUESTION 26.](#))
4. ☒ Will not issue a new decision ([GO TO QUESTION 26.](#))

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5. ☐ Other, please specify - *Continue with next question*  
6. ☒ No Answer

25.a. If you answered "Other" in question 25 above, please enter your response below.

26. Was there another appeal of the #1.?

*Click one button.*

1. ☐ Yes - *Continue with next question*  
2. ☐ No (GO TO QUESTION 37.)  
3. ☒ No Answer

**Appeal 3**

27. Name(s) of the appellant(s) and, if any, the organization(s) represented:

28. Date the appeal was postmarked or faxed:

(ENTER DATE USING YYYY-MM-DD FORMAT)

29. Date of the Appeal Deciding Officer's decision: (Note: This date should not precede the date from Question 28.)

(ENTER DATE USING YYYY-MM-DD FORMAT)

30. For this appeal, was the Appeal Deciding Officer's decision letter issued within 90 days of #4.? (Or 90 days plus the allowance if the deadline falls on a federal holiday or weekend?)

*Click one button.*

1. ☐ Yes (GO TO QUESTION 32.)

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- 2. ☐ No - Continue with next question
- 3. ☒ No Answer

31. Please explain why a decision was not rendered within the 90-day regulatory period. (For example, workload may have prevented a deciding officer from issuing a decision letter within 90 days of the decision date listed in question 4 above):



32. Did the Forest Service Chief use his emergency mechanism under the appeal regulations (specifically 36 C.F.R. Part 215.10(d))?

Click one button.

- 1. ☐ Yes
- 2. ☐ No
- 3. ☒ No Answer

33. Was the appeal dismissed without review?

Click one button.

- 1. ☐ Yes ([GO TO QUESTION 36.](#))
- 2. ☐ No - Continue with next question
- 3. ☒ No Answer

34. If not dismissed, what was the outcome of the appeal?

Click one button.

- 1. ☐ Affirmed ([GO TO QUESTION 36.](#))
- 2. ☐ Affirmed with instructions ([GO TO QUESTION 36.](#))
- 3. ☐ Reversed in whole ([GO TO QUESTION 35.](#))
- 4. ☐ Reversed in part ([GO TO QUESTION 35.](#))
- 5. ☐ Resolved informally, decision withdrawn by Forest Service ([GO TO QUESTION 36.](#))
- 6. ☐ Resolved informally, appeal withdrawn by appellant ([GO TO QUESTION 36.](#))
- 7. ☐ Other, please specify - Continue with next question
- 8. ☒ No Answer

34.a. If you answered "Other" in question 34 above, please enter your response below.

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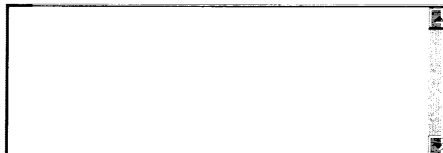
SKIP TO QUESTION 36.

35. If the #1. was appealed and either reversed in whole or reversed in part, what happened to the decision?

*Click one button.*

1. ☒ The decision was reissued under the same name (GO TO QUESTION 36.)
2. ☐ The decision was reissued under a different name (GO TO QUESTION 36.)
3. ☐ The decision is under review by the forest, and has not yet been re-issued (GO TO QUESTION 36.)
4. ☐ Will not issue a new decision (GO TO QUESTION 36.)
5. ☐ Other, please specify - *Continue with next question*
6. ☐ No Answer

35.a. If you answered "Other" in question 35 above, please enter your response below.



36. If this #1. has more than three appeals, please make a notation here and we will contact you for further information.

*Click one button.*

1. ☐ This decision has more than three appeals
2. ☐ This decision does not have more than three appeals
3. ☒ No Answer

---

### Decision Litigation Information

37. We understand you might not have decision litigation information available at your forest. If not, you will need to contact your regional office to gather the information for this section.

Was the #1. litigated?

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1. ☐ Yes - *Continue with next question*
2. ☐ No (GO TO QUESTION 42.)
3. ☒ No Answer

38. Name(s) of the plaintiff(s) and, if any, the organization(s) represented:

39. Date the complaint was filed:

(ENTER DATE USING YYYY-MM-DD FORMAT)

40. Please describe the status of the litigation. If you or your regional office does not know the status, enter "Do not know".

41. If this #1. has been litigated more than one time, please make a notation here and we will contact you for further information.

*Click one button.*

1. ☐ This decision has been litigated more than one time
2. ☐ This decision has not been litigated more than one time
3. ☒ No Answer

---

**Activity Information (For decisions made in fiscal years 2001 and 2002)**

42. Now that we have collected some overall information on this decision that includes at least one fuels reduction activity, we need information on **all** of the activities packaged under this decision that are intended to accomplish the decision objectives, including those activities that are for fuels reduction and those that are not. Starting with question 49, we will ask more specific questions about the fuels reduction activities.

To review our definition of activity, [click here](#).

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How many total activities are included in the #1.? (This number should include hazardous fuels reduction activities **plus** any other activities identified in the decision document.)  
*Enter numeric digits only.*

43. Of the total number of activities listed in Question 42, how many are **fuels reduction activities**? (**Note: The number of fuels reduction activities should not exceed the number from Question 42.**)  
*Enter numeric digits only.*

44. List the **non-fuels reduction activities** included in the #1.. (**Note: The number of activities described should equal the number from Question 42 minus the number from Question 43.**)

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Survey Questions to National Forests

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47. According to the Purpose and Need section of the NEPA document or decision document, what are the purposes of the activities that make up this decision? (Note: If a decision memo related to a CE does not have a purpose and need section, check number 9 and answer question 48.)

To review our definition of purpose, [click here](#).

To review our definition of NEPA or other decision documents, [click here](#).

*Check all that apply.*

1. ☐ Fuels reduction, natural fuels
2. ☐ Fuels reduction, activity fuels
3. ☐ Commodity production, timber and saw logs
4. ☐ Commodity production, other than timber and saw logs
5. ☐ Domestic livestock forage production
6. ☐ Habitat enhancement/restoration
7. ☐ Public safety
8. ☐ Stand growth/range management
9. ☐ Decision memo does not have a purpose and need section
10. ☐ Other

- 47.a. If you answered "Other" in question 47 above, please describe any other purposes for the activities that make up this decision:



48. Some purposes may not be explicitly listed in the Purpose and Need section of the NEPA or other decision documents, but are discussed elsewhere in these documents. If so, what are those purposes?

To review our definition of purpose, [click here](#).

To review our definition of NEPA or other decision documents, [click here](#).

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here.

*Check all that apply.*

1. ☐ Not applicable, All purposes are listed in the Purpose and Need section
2. ☐ Fuels reduction, natural fuels
3. ☐ Fuels reduction, activity fuels
4. ☐ Commodity production, timber and saw logs
5. ☐ Commodity production, other than timber and saw logs
6. ☐ Forage Production
7. ☐ Habitat enhancement/restoration
8. ☐ Public safety
9. ☐ Timber stand improvement/range management
10. ☐ Other

48.a. If you answered "Other" in question 48 above, please describe any other purposes for the activity:

--

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by each of the following methods? (Note: Add the acres for each activity separately regardless of whether the activities treat the same land. Thus, your entry for question 50 may be larger than your entry for question 49. The hypothetical decision listed in question 49 would yield the following results: 5,550 acres for mechanical treatment (3,000 acres for activity 1 plus 1,500 acres for activity 2 plus 750 acres and 300 acres for activity 3) and 1,050 acres for prescribed burning (300 acres plus 750 acres of underburning for activity 3).

*Note: acres may overlap. Enter numeric digits only. Enter 0 (zero) if none. Enter -99 (minus 99) if not available.*

50.a. Prescribed burn:

50.b. Mechanical treatment:

50.c. Herbicide/chemical treatment:

50.d. Grazing:

50.e. Other:

50.f. If you answered "Other" in question 50.e. above, please describe any other methods of treatment for the activities in this decision:

51. What are the method(s) of fuels reduction for the fuels reduction activity or activities that make up this decision?

*Check all that apply.*

1. ☐ Prescribed burning, broadcast burn
2. ☐ Prescribed burning, jackpot burn
3. ☐ Prescribed burning, underburn
4. ☐ Mechanical treatment, commercial timber harvest
5. ☐ Mechanical treatment, crushing/mastication

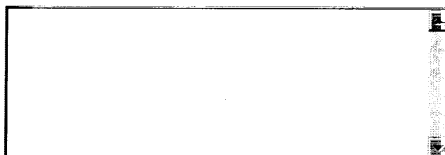
1/28/2003

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- 6. ☐ Mechanical treatment, piling (machine or hand) and burning
- 7. ☐ Mechanical treatment, precommercial thinning
- 8. ☐ Mechanical treatment, salvage harvest
- 9. ☐ Construction/maintenance of fuel breaks
- 10. ☐ Chemical/herbicide treatment
- 11. ☐ Livestock grazing
- 12. ☐ Other

51.a. If you answered "Other" in question 51 above, please describe any other methods of fuels reduction for the activity or activities that make up this decision:



52. At the time this decision was signed, did your forest have a definition of the wildland-urban interface area?

To review our definition of the wildland-urban interface in the Federal Register Notice, volume 66, page 751 dated January 4, 2001, [click here](#).

*Click one button.*

- 1. ☐ Yes, our forest uses the definition in Federal Register Notice, volume 66, page 751 dated January 4, 2001. ([GO TO QUESTION 53.](#))
- 2. ☐ Yes, our forest uses a definition **other than** the one in Federal Register Notice, volume 66, page 751 dated January 4, 2001. - *Continue with next question*
- 3. ☐ No ([GO TO QUESTION 54.](#))
- 4. ☒ Don't know ([GO TO QUESTION 54.](#))

52.a. If your forest had a definition **other than** the one in the Federal Register Notice (choice 2), what is that definition?



53. Are at least part of the fuels reduction activity or activities that make up this decision in the wildland-urban interface, as defined by your forest in

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the question 52 (regardless of whether they were described as such in the decision documents or NEPA documents)?

*Click one button.*

1. ☒ Yes - *Continue with next question*
2. ☐ No ([GO TO QUESTION 55.](#))
3. ☐ Don't know ([GO TO QUESTION 55.](#))

53.a. If you answered "yes" to question 53, approximately how many total acres of the activity or activities that make up this decision are in the wildland-urban interface area as defined in question 52?

*Enter numeric digits only. Enter 0 (zero) if none. Enter -99 (minus 99) if not available.*

54. If your forest did not have a definition of the wildland-urban interface area at the time this decision was signed, did your forest identify **in the decision documents or NEPA documents** whether the fuels reduction activities in this decision were in a wildland-urban interface area?

*Click one button.*

1. ☐ Yes - *Continue with next question*
2. ☒ NO ([GO TO QUESTION 55.](#))

54.a. If you answered "yes" to question 54, approximately how many total acres of the activity or activities that make up this decision are in a wildland-urban interface area as identified in the decision documents or NEPA documents?

*Enter numeric digits only. Enter 0 (zero) if none. Enter -99 (minus 99) if not available.*

55. Are the fuels reduction activity or activities that make up this decision in an Inventoried Roadless Area?

To review our definition of Inventoried Roadless Areas, [click here](#).

*Click one button.*

1. ☐ Yes - *Continue with next question*
2. ☐ No ([GO TO QUESTION 56.](#))
3. ☒ Don't know ([GO TO QUESTION 56.](#))

55.a. If you answered "yes" to question 55, how many total acres of the fuels reduction activity or activities that make up this decision are in an Inventoried Roadless Area?

*Enter numeric digits only. Enter 0 (zero) if none. Enter -99 (minus 99) if not available.*

1/28/2003

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Appendix XI  
Survey Questions to National Forests

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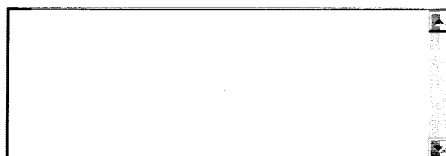
Survey of National Forests Decisions Signed in FY2001 and FY2002 with Fuels Reduct... Page 21 of 22

55.b. If you answered "yes" to question 55, did the decision include any activity(s) for road construction in the Inventoried Roadless Area?

*Check all that apply.*

1. ☐ No road construction
2. ☐ Temporary road construction
3. ☐ Forest service system road construction, classified road
4. ☐ Forest service system road construction, unclassified road
5. ☐ Other

55.c. If you answered "Other" in question 55.b. above, please enter your response below.



---

**Submit Your Final Answers**

56. When you have completed entering information for this decision, and want GAO to use your responses, please click the button that says "Survey for this decision is completed". If you wish to return to work more on this decision at a later date, please click "Survey for this decision is not completed". Only surveys marked completed will be used. You must re-open the survey to enter information on another decision.

*Click one button.*

1. ☐ Survey for this decision is completed
2. ☐ Survey for this decision is not completed
3. ☒ No Answer

57. When you have completed entering all of the information for all of your decisions for this forest, check the "Finished" box below. If you plan to continue to work on any of the decisions for this forest, click the "Not Finished" button below and then click the exit button.

*Click one button.*

1. ☐ Finished
2. ☒ Not Finished

**Thank you for your participation.**

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**Appendix XI**  
**Survey Questions to National Forests**

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**Print this section**

**Submit**

**Cancel**

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Questionnaire Programming Language - Version 5.0  
U.S. General Accounting Office

1/28/2003

# Comments from the U.S. Department of Agriculture



United States  
Department of  
Agriculture

Forest  
Service

Washington Office

14<sup>th</sup> & Independence SW  
P.O. Box 96090  
Washington, DC 20090-6090

File Code: 1570-2

Date: OCT 16 2003

Barry Hill  
Director, Natural Resources and the Environment  
US General Accounting Office  
Washington, DC 20548

Dear Mr. Hill:

Thank you for the opportunity to provide comments before the report is issued in its final form. As we said originally, we think you have done an excellent job on this study and in compiling the report. In reviewing this final draft report, we are happy to note that you have incorporated some of the points we raised when we provided comments on the Congressional Briefing material in May of this year. We do, however, have some lingering concerns.

One of our comments related to the 1 million acre personal use firewood project on the Tonto National Forest. We acknowledge GAO's mention of the limitation caused by including this project. Specifically on pg.11-12 you mention the possibility of skewed data along with an explanation for why that might occur. Nevertheless, we remain concerned that the tables, summaries, and appendices in your 4.8 million acre study include this 1 million acre project as part of the total acreage studied. The addition of a 1 million acre firewood gathering project, which is very different from the other projects in the study, seems not to fit the question being asked: Are appeals and lawsuits seriously impeding the accomplishment of National Fire Plan goals for hazardous fuels reduction? As we said in our original comments,

"We are very concerned that the inclusion of the acreage of 1 million acres for one forest's personal use firewood project may inadvertently skew the data showing where the Forest Service (FS) is experiencing delays in project implementation. If it were a relatively small project, we would not be concerned. However, this project contains 21% of the total acreage in your analysis, which we think will not lead to an accurate reflection of the kinds of projects that are more generally considered "fuels reduction projects". Though this is certainly a decision for a fuels reduction project, we think that it should not be included in this analysis because approving a large area (1 million acres) for personal use collection of

Barry Hill

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selective use of the data and potentially compromise objectivity. To address this concern, we recommended the following in the comments we provided in May:

"For the final report, to ensure that you choose the best set of data from which to make inferences, we think that you should contact the Regions to get more specific information on personal use firewood projects, so that equivalent data would be available from each Region. This way, you could develop some kind of objective classification of these kinds of projects from similar data and then decide whether to include or exclude them based on consistent information from each Region."

It is still our desire to see the tables and statements changed to reflect the removal of that project from analysis and have made the corrections on the draft document.

In addition we believe it is important to the understanding of the report to include two points prominently in the narrative:

First is a point we mentioned in our earlier comments regarding the fact that all appeals are part of the FS workload and that more than one appeal can occur per project. We would like to see a statement in the early briefing bullets mentioning that 285 appeals were filed on 194 decisions, meaning that the FS workload responding to appeals is substantially greater than if there were one appeal per appealed decision. Also, on page 14, Table 2, we would like to add another row between *Number of appealed decisions* and *Percent of decisions appealed* titled *Number of Appeals*. We believe that without the inclusion of this information, the reader cannot judge the impact of those appeals to the FS workload.

Another important point shown by your data and not highlighted in the narrative is that the percentage rate of appealable decisions that were appealed varies considerably by Region. For example while the national average for percentage of appealable decisions was 58%, Figure 13 shows the rates range from 36% to 90% with 6 of 8 Regions experiencing over 50% of all appealable decisions being appealed. For example, a person, county government, or FS employees in Missoula might get the impression that virtually every project is appealed since 90% of the appealable decisions in their Region are appealed. In fact Figure 16 shows that, during the period studied, 95% of prescribed burn and 93% of mechanical treatment projects that were appealable were appealed in that Region. Because of this variability, we would like to see the range of percentage rates for Figures 13 and 16 included in the highlights and/or briefing bullets when the 58% national average is mentioned.

Sincerely,

  
for TOM L. THOMPSON  
Deputy Chief for National Forest System



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